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THE UNITED STATES  
OF  
INDIA

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# THE UNITED STATES OF INDIA

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( A Constructive Federal Solution )

By  
V. K. GOREY, B.A., LL.B.

Foreword by  
SRI K. M. MUNSHI



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DEDICATED  
to  
Shri K. P. Gorey and Shri A. Gorey  
Father and Mother  
in  
Grateful and Loving Memory  
by  
the Author



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## FOREWORD

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Mr. Gorey has made an attempt to offer a solution of the Constitutional problem of India. I wish it were possible to find an easy solution. The book contains useful information and will be helpful to the student of our Constitutional problems.

*Bombay, }*  
*1-11-46. }*

KANNIHYALAL M. MUNSHI.





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## P R E F A C E

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The following pages were written during the period of June 1945 to December 1945. Owing to a number of difficulties and preoccupations, they could not see the light of day uptill now. The Proposals described therein deal with the various aspects of the Indian constitutional problems, and attempt a feasible federal solution. It is now generally accepted that a federation of some sort is the only possible solution of the Indian problem, bearing in mind the large number of communal and cultural provincial units and the still larger number of Indian States to be dealt with. The main suggestions essential for the solution of the Indian problem are provincial re-distribution on a homogeneous basis, the re-grouping and regional sub-federations of small States, responsible government in States, re-organisation of the federal legislature and executive, and finally the creation of a vast democratic federation in India on the lines of the United States of America.

On the 16th May 1946, the British Cabinet Delegation Award was announced, proposing to create a Union Centre with Defence, Foreign Relations, Communications and the power of taxation as its sphere of action and group federations on communal lines. The entry of States in the Union Centre would also be presumably in sub-federations of their own excepting bigger States.

The long-term plan of the British Delegation was announced on the 16th of May and their Interim Government proposal on June 16, 1946. While rejecting the latter, the Indian National Congress accepted the long term plan in toto. The Muslim League first accepted and later rejected both the proposals. Consequently the Congress was called upon by Lord Wavell to form the Interim Government, pending the drawing up of the new Constitution of India by Indians. To the great rejoicing of Indians through out the length and breadth of India, the Congress formed the Interim Government on 2nd Sept. 1946. Later, the Muslim League was also invited to join the Government with five representatives of their own, and it was declared by Lord Wavell that the League party was joining the Interim Government in the spirit of co-operation not only in the day-to-day work of the Government, but also in the work of the Constituent Assembly. A little before the due date of the Constituent Assembly *i. e.* 9th December 1946, Mr. Jinnah sprung a surprise by declaring that the League would have nothing to do with it in view of the disturbed conditions in India and the interpretation put by the Congress on the provision regarding the grouping of provinces. The Congress holds that the grouping of provinces is initially optional, while in a press conference given soon after the announcement of the Award, Lord Pethick Lawrence gave out that it was obligatory for the provinces to join the prescribed groups, but they would have the option to go out of

the group and join another after the first elections under the new constitution. Be that as it may, the Congress would be bound by the legal interpretation of the provision regarding groups.

To resolve the deadlock, the leaders of the major parties were invited to conference in London and it is sincerely hoped that the doubts of the Muslim League would be removed and it would co-operate not only in drawing up the new Constitution for India, but also in creating an atmosphere of peace, vital to the prosperity of all the communities.

The proposed federation with limited powers is bound to prove a very weak, though not quite a novel form, and it can be imagined that it will only prove a passing phase. After some time we must look forward to a purer and stronger structure on the lines of the United States of America with certain modifications to suit the peculiar conditions of India.

It will be observed that the following pages approach the constitutional problems, with the same high ideal in view and in the impartial and dispassionate spirit of a student. The salient features of the Government of India Act of 1935 have been referred to and discussed to bring out the inherent defects in the federal scheme proposed therein and to throw light on the points to be borne in mind in drawing up a federal constitution. I hope the critical method followed will be found interesting and suggestive.

I am conscious of my limitations and of the errors especially of omissions that will be found in this little work and crave the indulgence of the reader in that respect. My thanks are due to the authors of the books I have referred to and quoted and especially to the learned Sri K. M. Munshi who has been extremely kind enough in writing a foreword to this booklet. The Management of the Padmaja Publications, Baroda deserve to be heartily thanked for very kindly accepting and publishing the book in time.

My special thanks are due to my brother, Mr. L. K. Gorey, the Librarian of R. A. Podar College of Commerce and Economics, without whose incessant efforts, the publication of the book would have been well-nigh impossible.

*Gwalior,*  
*1st December 1946.* }

V. K. GOREY

## THE MISSION OF INDIA. ~

"With buoyant hope, with a faith that never shirks duty, with a sense of justice that deals fairly to all, with unclouded intellect and powers fully cultivated, and lastly with a love that overleaps all bound, renovated India will take her proper rank among the nations of the world. This is the goal to be reached, this is the promised land. Happy are they who see it in distant vision, happier those who are permitted to work and clear the way on to it, happiest they who live to see it with their eyes and tread upon the holy soil once more."

*M. G. Ranade, in one of his  
speeches, printed in his Life by  
G. A. Natesan & Co., Madras.*

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"My goal is the United States of India, where every province and every State, working out its own destiny in accordance with its own environment, its own tradition, history and religion, will combine together, each subscribing its little quota of knowledge and experience in a labour of love, freely given for a higher and noble purpose."

*H. H. Maharaja of Alwar  
in one of his speeches.*

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You should realise that whatever the form of administration may be, that government is the best which is based on the will of the people. It is, therefore, necessary that the Ruler and the ruled should form inseparable parts of that corporate body which we call the State.

*H. H. the Maharaja of Gwalior  
in a speech to the Majlis-i-am*







## CHAPTER I

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### INTRODUCTION

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The Indian problem is, without exaggeration, one of the major and the most baffling problems of the world. India comprises 388 million people, a far greater population than the United States of America, Great Britain, South Africa, Canada and Australia, put together. In her reconstruction lies the future of 1/5th of the human race and of civilisation, older than that of Greece or Rome, and unsurpassed in its philosophy and human outlook. The solution of her problem will be a crowning political achievement and will facilitate the problem of all the coloured races of the world. She will have a great steadying influence on international politics and her great potential power will greatly reduce the unfortunate prospects of future internecine warfare. Prof. Zimmern rightly observes :

“India is the pivot of world politics in the coming generations. To put it more specifically, if India preserves her association with the British Commonwealth, and the Commonwealth, on its side, gives India the place in its system and in its counsels which is due to her, the prospects for world peace and general human progress will be immeasurably increased. If, on the other hand, the effort to establish an equal partnership between India and the other British dominions

should break down, the consequences would recoil not simply on the parties immediately concerned, but on the whole human family. The stage would be set for an inter-racial conflict of incalculable dimensions."\*

Almost in every sphere, but especially from the point of view of economic well-being, India presents a very gloomy picture. Gifted with all the resources in the world and a large variety of climate and a rich soil, she is one of the poorest and the most unfortunate countries, carrying on miserable existence from day to day. The main cause of this helplessness is her political status. It is common knowledge that India is a dependency of Great Britain. The Government of India is subordinate to the Secretary of State for India and through him to the British Parliament. The British supremacy in India took nearly a century to establish itself. The East India Company came to India for purposes of trade, and following the chaotic political condition of India on the decline of the Mughal Empire began to acquire power and territory. The dissensions among the Marathas greatly facilitated the extension of the power of the Company. The collapse of the Maratha power brought the Central and Western India under the British sway and the policy of expansion, followed especially by Dalhousie, consolidated and firmly established the supremacy of the Company over the

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\*See India Analysed Vol. I (Victor Gollancz) 1933.

greater part of India by 1856. It is entirely erroneous to suppose that the British found themselves the masters of India almost in a fit of absent-mindedness. The ruthless policy of expansion followed by Dalhousie chiefly brought about a wide-spread conflagration which swept the country. It failed on account of disunity and lack of efficient military co-ordination among its sponsors. The rising of 1857 put an end to the administration of the East India Company and led to the transfer of the government of India to the Crown. After the assumption of all powers of administration by the Crown, great changes came about in India. With the establishment of Universities and the spread of western knowledge, ideas of democracy and liberty were readily adopted and developed, giving rise, in due course, to an incessant demand for self-governing institutions. A new spirit was abroad and, awakening to new life and progress, new India began to aspire for a type of government which was and is calculated to bid farewell to absolutism and irresponsible rule.

The Indian Councils Acts of 1861 and 1893 merely enlarged the Legislative Councils, while the authors of the Morley-Minto reforms themselves disclaimed any intention of introducing a Parliamentary form of government in India.\* The legislature was merely a dignified deliberative body with no power or responsibility.

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\* See Montague-Chelmsford Report, para 79.

The Government of India Act of 1919 introduced what is commonly known as dyarchy. The central legislature was given an elected majority, but no responsible element was introduced at the centre. In the provinces certain subjects were transferred to be administered by ministers chosen from among the elected representatives of the people. The more important subjects including finance were reserved and were to be entrusted to persons responsible to the Governor. The legislature had no power to remove the ministers who were at the mercy of the Governor for their retention in office. Though valuable as an experiment and an expedient, the reforms were illusory and in actual practice proved of little material benefit. Inadequate and unsatisfactory as they were, the tense political atmosphere, in which they were to be worked, made them totally unworkable. India had greatly contributed, in men and money, to the successful conclusion of the Great War of 1914-18 and looked forward to great political changes in appreciation of her unstinted sacrifices in the European catastrophe. The harsh measures adopted by the Government of India were ominous for the reforms, and the general repression and especially the tragic happenings in the Punjab stunned the people and alienated the Indian National Congress. The premier political body launched a nation-wide non-co-operation movement and completely boycotted the reforms. They were worked, in a half-hearted spirit, by persons without any real following in the country with the result that, in course of

time, Dyarchy, as the reforms were known, became almost a term of abuse. Sir Harcourt Butler, a distinguished official remarks in his book, 'India Insistent' (1921):

"In India it has become a term of abuse. I have heard one man shouting to another, 'Your are a dyarchy'."

For about sixteen years was carried on the dyarchical experiment which was nowhere a success on account of its inherent defects. The Government of India continued to be irresponsible as before. In 1924 the Government of India appointed a Reforms Enquiry Committee, which suggested minor reforms which were disregarded and shelved by the Government.

The Mont-ford reforms were to be revised after a trial of 10 years. Before the expiry of the period, an all-white Commission under the chairmanship of Sir John Simon was announced by Lord Birkenhead, the Secretary of State in 1927 to report on the extension or modification of the Mont-ford reforms. Lord Birkenhead had also thrown out a challenge to the Indian politicians to prepare an agreed constitution for India. The Indian National Congress appointed a Committee under the chairmanship of Pandit Motilal Nehru and an All-Parties Conference was held in Delhi to draw up 'an agreed scheme.' The Nehru Committee drew up constitution of the dominion type and did not propose an Indian Federation, probably due to the constitutional difficulties arising out of the inclusion of Indian States. The Indian National Congress, in its session

held at Calcutta in 1928 urged on the British Government to grant a Dominion constitution on the lines of the Nehru Report within a year to be acceptable.

The appointment of the Simon Commission raised a universal hue and cry in India and all the parties declared a complete boycott of the Commission at the exclusion of Indians from it. In due time the Commission drew up a report, which was completely ignored and proved still-born. The Commission themselves requested the British Prime Minister to hold a Round Table Conference to initiate discussion of the Indian Problem with Indian leaders to bring about a solution. To allay the widespread opposition then raging in India, Lord Irwin, the Governor General, declared on the floor of the Indian Legislature on 31st October 1929 :

“ I am authorised on behalf of His Majesty's Government to state clearly that, in their judgment, it is implicit in the declaration of 1917, that the natural issue of India's Constitutional Progress, as there contemplated, is the attainment of Dominion Status. ”

He further announced that a Round Table Conference would be held at which the Government, the Princes and the people of British India would meet and discuss the Indian problem. In the meanwhile, the younger and the extreme element in the Congress had, in the Lahore session of 1929, brushed aside the moderate

short of complete independence would satisfy Indian aspirations. Not getting the desired assurance from Lord Irwin that the Round Table Conference would draw up a Dominion Constitution, Mahatma Gandhi and other Congress leaders did not participate in the First Round Table Conference. During the Conference the Princely delegates declared themselves, almost in an unpremeditated manner, in favour of a federation for the whole of India including Indian States. On this declaration the whole basis of the Conference underwent a fundamental change and the further structure of the constitution was decided to be federal, with responsibility at the centre. The Second Conference was attended by Congress leaders, particularly Mahatma Gandhi, while the Third Conference met under the shadow of repression and complete loss of faith on either side. The deliberations of the three Conferences resulted in the White Paper, which after being thoroughly examined by the Joint Parliamentary Committee, was drawn up and passed, in its modified form, as the Government of India Act of 1935.

The Act is a bulky piece of legislation which envisages a federation of British Indian Provinces and Indian States, recreating the present provinces into autonomous governments and the accession of Indian States, which already enjoy internal sovereignty, at least in theory and especially in the case of bigger ones.

Even a cursory glance at the provisions of the



Act will suffice to prove that it is a thoroughly retrograde measure. It is commonly agreed that the future constitution of India ought to be of the federal type, but the federation proposed by the new Act presents a very gloomy picture and gives us no hope that it would work satisfactorily or develop into a fine constitutional structure. The glaring defects of the 1935 Constitution, some of which are mentioned below, made it acceptable to no section of the Indian people.

(1) The Indian Federation is a creation of the British Parliament and has no sovereign powers. S. 110 of the Act provides that nothing in the Act shall be taken "to affect the power of Parliament to legislate for British India, or any part thereof," and S. 2 provides that all rights, authority and jurisdiction appertaining to the government of the territories in India are exercisable by His Majesty, except in so far as may be otherwise directed by His Majesty. Again, the Preamble to the 1919 Government of India Act, which is still retained, states that "the time and manner of each advance can be determined only by Parliament upon whom responsibility lies for the welfare and advancement of the Indian people."

(2) The Secretary of State and the Governor General dominate the whole constitutional structure. The latter is invested with very wide powers of legislation, reservation and vetoing of bills, passing Governor General's Acts, certifying expenditure refused to be passed by the legislature, acting in a large number of

cases in his discretion and individual judgment, and finally suspending the whole constitution, in case of a breakdown, under S. 45.

(3) The dyarchical mode of granting responsibility which proved a failure in the provinces, has been taken to the centre or the federal executive, reserving (1) Defence, (2) External Affairs, (3) Ecclesiastical Department, and (4) Tribal areas to be administered by the Governor General in his discretion and will be completely outside the authority of the Federation. The remaining subjects will be administered by the Federal ministers, subject always to the extraordinary powers of the Governor General.

(4) The Federation will consist of British Indian provinces and Indian States. The former will have responsible governments though with certain safeguards, while the latter will be ruled by autocratic Princes. There is no statutory obligation on them to democratise their administration, before entering the Federation.

(5) The Federation will have no direct contact with all its citizens and will not guarantee the fundamental civic rights, generally included in all federal constitutions. The absence of such a guarantee in the constitution would give a very long rope to many units to stifle public opinion and limit public rights.

(6) The representatives in the Federal Assembly would be, strangely enough, indirectly elected by the

provincial, and may be, in case of State representatives, be nominated by the respective Rulers. The system of indirect election to the Lower House is against the universal practice of election in a federation.

(7) The division of subjects between the federation and the units would not be uniform. The subjects assigned to the provincial units would be uniform, while the State units would be bound only to the extent signified by them in their Instruments of Accession.

(8) The appointments to all the important posts and the control over the Railways and the Reserve Bank would be outside the scope of the Federal authority.

For the reasons stated above, the federal scheme is acceptable to no party in India. The Nationalist India is opposed to it as it does not concede effective power to the people. The Muslims oppose it as it does not go far enough to satisfy their demands. The Princes do not want it as it does not clearly define the hitherto undefined and almost limitless authority of the Paramount Power and set up machinery to adjudicate upon cases in which their own rights are deemed to be encroached upon.

The Government of India Act of 1935 must be drastically modified in a large number of particulars before it can be accepted and worked as a provisional structure. The constitution must not fetter the right of the people to shape their future according to their ideals. The constitution should not lead to the impression that the sovereignty of government does

not reside in the country but with distant masters in a far off land. The exploitation of the people going on under the harmless title of free trade should forthwith stop. A costly foreign administration would be necessarily curtailed in view of the extreme poverty of the people. A national economic and financial policy will have to be evolved which will ensure the economic uplift of the masses by co-ordinating all the resources of the nation in the wider interests of the people and by subordinating all other interests, vested or otherwise, to the consideration of the supreme good, subject to compensation for legitimate rights.

All this and much more can be achieved by building up a big democratic federation, on the lines of the United States of America, with certain modifications, representative of and entirely responsible to, the people, and embracing British Indian provinces and States, with defined powers.

The glorious part played by Indians in the two great wars of this generation and the sacrifices made by her sons in men and money would amply justify her right to complete self-government. It must not be forgotten that the victory of the Allies in both the wars would have been a very doubtful factor without India's enormous sacrifices in every field. Morally the right of India to manage her affairs is indisputable. Legally it cannot be withheld for long. If India is refused her rightful place in the world, the consequences would be far-reaching, disastrous and almost incalculable.

## CHAPTER II

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### FEDERAL INDIA

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The constitution of India envisaged in the Government of India Act of 1935 is federal. But long before that Act was passed a federation of some sort had been in the offing. Loose kinds of confederations were not unknown to India in her long and chequered history. In ancient times, it was very common for a mighty king to undertake what was termed 'Digvijay' or an all round conquest, and to become a 'Chakravartin' or 'Samrat' and to have a great number of subordinate princes who would pay him tribute and acknowledge him as their overlord. Such princes are well-known in history as 'Mandalik' *i. e.*, rulers belonging to the 'circle' of a supreme overlord.

"The state in ancient India was not unitary in the strict sense of the term. It was saturated through and through with the principles of what for convenience may be called federalism and feudalism. It must, of course, be emphasized that modern notions of federalism—written constitutions, clear demarcation of spheres of power, the idea of federal and state authorities—were unknown to India."<sup>1</sup>

those days and tributary princes were generally absolute masters of their own territories. Overlordship would shift from one sovereign to another according as the supremacy of military power passed from the one to the other. "We find Emperor Harsha thus becoming 'the centre of a group of subordinate kings who belong to his system and move round him as his satellites.'"<sup>1</sup>

From the earliest times India always presented a picture of a large number of states, now joining in a loose confederacy for a common purpose, now fighting against one another, always prepared to owe allegiance to a mighty overlord, be he a Rajput, Mughal, Maratha, or British. In the early period, Chandragupta Mourya Asoka, Samudragupta and Chandragupta Vikramaditya ruled over the greater part of India as Emperors. The Mughal Empire in India was much more centralised, but it too included many outlying provinces under Governors, enjoying substantial powers and tending to free themselves from the Imperial yoke at the first sign of central weakness or lack of control. Coming to the more modern times we find that the Maratha Power was a loose confederacy, consisting of Gwalior, Nagpur, Baroda, Indore and Poona, each owing a nominal allegiance to the Maratha Emperor at Satara, but virtually enjoying complete mastery and freedom of action in its own sphere. It may be mentioned, in passing, that it was precisely this weak control of the central power over the out-

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<sup>1</sup> Dr. R. K. Mukerji: 'Harsa,' p. 38, 103-4 quoted in B. M. Sharma: 'Federal Polity', p. 2.

lying provinces and powerful generals that precipitated the downfall of the Mughal and the Maratha powers. This would be a convincing proof that what India is not a loose confederation of States, mistaken by some Princes at the Round Table Conference for a federation, but a real federal structure, the creation of a powerful state to which all the provincial state units would be subordinate to the extent desired in the constitution.

According to Prof. Dicey there are two requirements for the formation of a federation. (1) There must be a body of states so closely connected by locality, history, by race or the like, as to be capable of bearing, in the eyes of their inhabitants an impression of common nationality. (2) The different states must desire union but not unity. They desire to maintain their separate identity and independence, even after the formation of their union for certain common objects. It would appear that these two pre-requirements are eminently satisfied by India. In spite of her unity of culture and historical traditions, India is a heterogeneous country, having a great variety of languages, religions and sects and geographical configuration. There are various provinces, having distinct provincial problems and separated from one another by language, culture, traditions and local patriotism. There is in addition, a very large number of States, more or less autonomous, anxious to retain their separate existence and maintain their historic traditions. In

this diversity and local attachment, there runs a strong under-current of unity of feeling and common objective throughout India, and a new-born desire, generated mainly by western education and democratic ideals, to evolve and form a strong single state, overriding petty boundaries and parochial sentiments. There is a common desire to have a central government compatible with the separate existence of the different units, for the common purpose of defence, external relations, railways, financial and economic policy and the like. All this points only in one direction and that is a federation of British Indian provinces and Indian States.

A federation of India was foreseen and desired by good many Princes and statesmen long before 1935. As early as 1917, during the Indian tour of Sir Edwin Montague, the Maharajas of Baroda and Bikaner observed that a federation would adequately safeguard the interests of the State consistently with the interests of British India. In the Ministers' Conference at Bikaner, the proposal of the federal form of government for India was put forward and the idea received a wide approval. During the visit of Sir E. Montague to Alwar, His Highness the Maharaja of Alwar, declared himself in favour of the federal conception in these noble words:

“My goal is the United States of India, where every province and every state, working out its own destiny in accordance with its own



environment, its own tradition, history and religion, will combine together for imperial purposes, each subscribing its little quota of knowledge and experience in a labour of love, freely given for a higher and noble purpose."

Though the federal form was not put forward in the Montague-Chelmsford Report, the learned authors believed that ultimately India would have to be a federation. They observe :

"Our conception of the eventual future of India is a Sisterhood of States, self-governing in all matters of purely local or provincial interest, in some cases corresponding to existing provinces, in others, perhaps modified in area, according to the character and economic interests of their people. Over this congeries of States would preside a central government increasingly representative of and responsible to the people of all of them, dealing with matters of common interest to the whole of India, both internal and external; acting as arbitrator in inter-state relations, and representing the interests of all India on equal terms with the self-governing units of the British Empire. In this picture there is a place also for the Native States. It is possible that they too will wish to be associated for certain purposes with the organisation of British India in such a way as to dedicate their peculiar qualities to the common service without loss of individuality."

The Simon Commission, too, were of opinion that the future constitution of India would have to be federal as no other form of constitution would bring together units differing so widely as the different provinces and Indian States, consistently with the internal autonomy enjoyed by the latter.

They observed: "We are inclined ourselves to think that the easier and more speedy approach to the desired end can be obtained by re-organising the constitution of India on a federal basis in such a way that the individual States or groups may have the opportunity of entering as soon as they wish to do so."

But the Commission believed that such a federation was only an ultimate and remote possibility.

The Simon Commission were not in favour of any responsibility being conceded at the centre. The country-wide opposition to their report, however, altered the whole situation. It was rejected as totally unsatisfactory by all the political parties and proved almost still-born. The problem of the Indian States was outside the scope of the Commission. They were themselves of opinion that it would be necessary to set up some sort of conference to deal with the problem of British India as well as Indian States.

Above all, the demand of British Indian politicians for responsibility at the centre was stronger and more insistent than ever. Accordingly the Round Table Conference was convened, which held its first

session in London from November 1930 to January 1931.

At the very first session the princely delegation declared themselves in favour of a federation of British India and Indian States. Whether this pronouncement was pre-meditated or made suddenly on the spur of the moment, it completely changed the situation and the whole problem of constitutional advance was discussed in the light of the new federal ideal envisaged by the Princely delegates. The Princes were not in favour of central responsibility which would adversely react on their own rights and interests. Secondly, they were dissatisfied with the findings of the Butler Committee so far as paramountcy rights were concerned, and apprehensive of the undefined and unlimited rights of the Paramount Power, they hoped to get their rights duly recognised and judicially interpreted by the Federal Court. The British Government was reluctant to concede responsibility at the centre even with safeguards. It would have been, for them, going too far. Further, if there was to be popular control of the centre, affecting the whole of India, it would be only natural, well-nigh inevitable, for the States to share it and help in shaping all-India policies, especially in so far as they affected their interests.<sup>1</sup> This was possible only in a federation of British India and Indian States. The entry of the Princes into the federation, was, therefore, welcomed as a very stable

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<sup>1</sup> See Montague-Chelmsford Report, p. 102.

and powerful element, which would counteract the increasing influence of the Nationalist forces in India. Many British statesmen who were previously opposed to the idea of a federation in India and the introduction of central responsibility, were greatly attracted by the new idea, and valuing the importance of the Princes in the Federation, welcomed their declaration. How greatly valuable the Princes would be in a federation was realised by the Marquess of Reading, who observed:

"That will be a steady, stabilising influence, more valuable to us than appears at first sight. What is it we have most to fear? There are those who agitate for independence for India, for the right to recede from the Empire altogether. . . . The Princes are interested in the preservation of the connection of India with the British Empire as ourselves. . . . There will be approximately 33% of the Princes who will be members of the Legislature with 40% in the Upper Chamber. . . . So that with that influence in the federated legislature I am not afraid in the slightest degree of anything that may happen, even if the Congress managed to get the largest proportion of votes."<sup>1</sup>

The Muslim delegates to the Round Table Conference welcomed the federal proposal for different reasons. Though in the whole of India the Muslims are in a minority, there are many provinces in British

<sup>1</sup> Parliamentary Debate on the India Bill.

India in which they enjoy clear majority. In a federal constitution those provincial units would be dominated by them, while in others they would still be in a minority. This would be an ideal solution of the minorities problem, so far as the provinces were concerned. Sir Muhammad Shafi, who held highly responsible positions in the Government of India and was a brilliant exponent of legitimate Muslim interests in India at the Round Table Conference,—remarked in this connection :

“To my mind the Federal India of the future with the Central Government in the hands of the majority community, and the Provincial Governments in six out of the eight Governors’ Provinces in the hands of the same community, the four Provinces in which the majority community will be in a minority and the minority community will be in a majority will in itself constitute a guarantee of good treatment by both the communities. To me this one picture as regards the future is the most fascinating and the most attractive, for to my mind this is the real solution, the permanent solution, of the Hindu-Muhammadan problem in India.” \*

Most progressive-minded Indians are in favour of an Indian Federation. The Princes have already welcomed the federal solution, though they may be unwilling to give their consent to some of the provisions of

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\* Report of the Proceedings of the first R. T. C., p. 28.

the Government of India Act of 1935. As has already been submitted, the Act would have to undergo material alterations and amendments, if it is to serve even as a workable basis. The Indian National Congress and the other parties have unmistakably declared themselves in favour of a federal constitution for India, though their opposition to the above Act is stronger than ever. The Congress attitude to the federation proposed under the Act of 1935 was summed up in their resolution passed in the Haripura Session in 1937 as follows :

“ The Congress has rejected the new constitution and declared that a constitution for India, which can be accepted by the people, must be based on independence and can only be framed by the people themselves by means of a constituent assembly, without interference by any foreign authority.....The Congress is not opposed to the idea of federation; but a real federation must, apart from the question of responsibility, consist of free units enjoying more or less the same measure of freedom and civil liberty, and representation by the democratic process of election.....The Indian States participating in the Federation should approximate to the provinces in the establishment of representative institutions and responsible government, civil liberties and method of election in the Federal Houses.....”

The Liberal party in India, a small but doubtless

a very intelligent association, counting many intellectual stalwarts like Sir Tej Bahadur Sapru, Dr. M. R. Jayakar and many others, in its fold, generally favoured the federal solution and their gifted exponent, Sir Tej, one of the delegates to the R. T. C. vehemently appealed to the Indian Princes to set aside their narrow insularity and welcome a new united nation in the following words :

“ I think the Indian Princes are every inch as patriotic as any one of us, and I make an earnest appeal to them not to confine their vision merely to what is called ‘one-third India’. I ask them to say whether at any time in history India was so arbitrarily divided as it is now geographically—British India and Indian India. I say we are one India. Let them move forward with the vision of an India which will be one single whole, each part of which may be autonomous and may enjoy—absolute independence within its own borders regulated by proper relations with the rest. ”\*

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\* Proceedings of the Third Meeting of the Minorities Committee, First R. T. C., p. 51-52.

## CHAPTER III

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### PROBLEMS OF THE FEDERATION

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#### (i) THE PROBLEM OF MINORITIES

Of all the baffling problems confronting public men in India, that regarding minorities, especially the Hindu Muslim problem is the most complex. It has become all the more complicated of late and apparently insoluble owing to the existing differences between them being fanatically fanned into almost irreconcilable antagonism, resulting in the demand for the vivisection of India into two States, Pakistan for the Muslims and Hindustan for the Hindus.

A glance at the distribution of population in India will make it clear that Muslims are concentrated in the North West and the North East, *i. e.* in Sindh, Baluchistan, N.W.F. Province, the Punjab, Kashmere, and in Bengal and part of Assam. Their population in the whole of India according to the Census of 1941 is 94.4 millions out of whom 79.4 millions are in British India and 15.0 in Indian States. They form 24.2% of the total population of India. It should be noted that in four out of eleven Governor's provinces they are in an absolute majority, while in Assam where they are 34% and in U. P. where they are 15% they have a considerable minority.

When political power was not conceded to the



representatives of the people, the communal problem was mainly that of gaining official favour and sharing the valuable crumbs of offices. Even before the introduction of the Mont-Ford reforms, Muslims had, in a command performance, desired and obtained separate electorates, which were granted them under the Morley-Minto Reforms of 1909. Better counsels prevailed when the Lucknow Pact was entered into between Hindu and Muslim leaders in 1916 which gave considerable weightage to Muslims in all Hindu majority provinces and to Hindus in the Punjab and Bengal, where they were in a minority (N. W. F. P. and Sind were not then separate provinces). It was not unfair to either party. But Muslims drifted away from the pact and demanded the creation of more Muslim Provinces, statutory majority in Bengal and the Punjab, and weightage in the centre and the remaining provinces.

The Nehru Committee, appointed by All Parties Conference in 1928, disapproved of any weightage being given to any minority, Hindu or Muslim in any province or for the Muslims at the Centre. Instead they recommended in their Report, Joint Electorates with reservation of seats for minorities in proportion to population with the right to contest additional seats. They were also in favour of the fundamental rights of the people being incorporated in the constitution, which would safeguard the rights and allay the fears of the minorities in respect of their culture, language, religion and customs.

The weightage and special patronage enjoyed by the Muslims have inordinately whetted their ambitions and have encouraged them to put their claims in a higher key. In the Round Table Conference Muslim spokesmen, particularly Mian Sir Mohammad Shafi and Mohammad Ali favoured the establishment of federation in India as it would give political power to Muslims in some provinces and to Hindus in other provinces and they considered it an ideal solution of the Hindu-Muslim problem. Of late under the leadership of Barrister Jinnah, Muslims have put forward, in their annual session at Lahore in 1940 the fantastic demand for the separation of the Muslim majority provinces from the rest of India and forming an independent Muslim Nation. The resolution ran as follows :-

“ It is the considered view of this session of the All-India Muslim League that no constitutional plan would be workable in this country or acceptable to the Muslims unless it is designed on the following basic principle, *viz.* that geographically contiguous units are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary that the areas in which the Muslims are numerically in a majority, as in the north-western and eastern zones of India, should be to constitute independent states in which the constituent units shall be autonomous and grouped sovereign..... ”

In the Madras session of the Muslim League, Mr.

Jinnah outlined the policy of the League in the words :

“ We do not want under any circumstances a constitution of an All-India character with one Government at the Centre. ”

Similarly the creed of the League was changed from

“ the establishment in India of full independence in the form of a federation of free democratic states in which the rights and interests of the Muslim and other minorities are adequately and effectively safeguarded in the constitution ” which was adopted in their Lucknow session in 1937 to the establishment of completely independent states in the regions in which the Muslims are in a majority in which the constituents units shall be autonomous and sovereign.<sup>1</sup>

The real fear which actuated the Muslims to demand a separate and independent state is the imminent extension of democratic institutions in India which would give political power to the representatives of the people. Taken as a whole the Muslims are in a minority, and are afraid of Hindu dominance at the Centre. Muslim fears of Hindu dominance can very well be provided for by the introduction of a federal form of government in which the units would be completely autonomous and enjoy maximum powers of legislation compatible with the safety and stability of the federal government, as was so ably advocated

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<sup>1</sup> See Indian Year Book 1943-44, pages 860, 862 & 863.

by Sir Mohammad Shafi, in the R. T. C.<sup>1</sup> and to provincial redistribution upon a more rational and homogenous basis.<sup>2</sup>

How Pakistan (as the new Muslim State would be termed) consisting of some units to the north west and one very important unit (Bengal) to the north east, separated by hundreds of miles of foreign territory and by a number of Hindu majority states could be governed as one state is a great constitutional riddle and is beyond the range of practical politics. However sentiment may favour such a catching idea, a little realistic reflection will make it abundantly clear that, even from the point of view of Muslim interest it is positively a retrograde and harmful notion and is pregnant with mischievous and dangerous possibilities for the whole of India.

To comprehend the full implications of the Pakistan idea the distribution of population in India (see the table given in Appendix A) especially that in the Punjab and Bengal should be carefully considered. The population of the Punjab is 284 lakhs out of which 75 lakhs are Hindus, 35½ lakhs are Sikhs and 162 lakhs are Muslims, that is about 68% are Muslims, 26.4% are Hindus and 12.5% are Sikhs. Both in the Punjab and Bengal there are many districts in which Hindu or Muslims predominate. In the seventeen districts comprising Western Punjab Muslims predominate

1 See page 14, chap. II.

2 See the next part of this chapter.

The Sikhs along with Hindus dominate in the five central districts *viz.* Jullunder, Ludhiana, Hoshiarpur, Ferozepore and Amritsar, while Hindus are in a substantial majority in the eastern district *i. e.* Hissar, Rohtak, Gurgaon, Karnal, Ambala, Simla and Kangra. There are about 250 lakhs Hindus or 41.3% and 330 lakhs Muslims or 54.5% in Bengal. The Sylhet district of Assam is mainly populated by Muslims. Judged from any point of view, the Hindu majority districts of the Punjab and Bengal cannot be included in the Pakistan plan. If they are, it will be against all the canons of justice or political science. They have a far greater right to be constituted separate provinces than either Sind or N. W. F. P.

*Pakistan would be a weak state :—*The future Pakistan would comprise (1) Sind, (2) Baluchistan, (3) N. W. F. Province, (4) Western Punjab, in the North-west and Eastern Bengal with Sylhet in the North-east. It does not require very great imagination to conclude that the State would be very weak and poor from the economic and the industrial viewpoint. A considerable part of the land in it is sandy or rocky and unproductive. Units like Sind, Baluchistan and N. W. F. P. would be deficit provinces and prove a liability to the Central State and would be unable to bear the burden of an efficient administration. Sind and N. W. F. P. enjoy large subventions from the Central Government which would cease to be available.

*Pakistan an unreasonable idea* :—The demand for Pakistan is unreasonable in so far as it is based on religion. No State in the modern world is constituted on the basis of religion. If we follow the idea to its logical conclusion, we may have to create a large number of small states, a virtual Balkanization of the country with the disastrous consequences of interminable rivalries and disputes. Fired by the idea of a theocratic state, every separate community would rise and demand an independent state. India is a geographical, cultural and political unity. Apart from the question of self-sufficiency of the units, it would be impossible for India to wield the influence she would in the deliberations of the future world order, if she is a house divided against itself. Regarding the essential unity of India Lord Linlithgow, Ex-Viceroy and Governor-General, observed in his Calcutta speech :

“Geographically India for all practical purposes is one. I would judge it to be as important as ever in the past, nay, more important that we should seek to conserve that unity in so far as it may be built up consistently with full justice for the rights and legitimate claims of the minorities, whether those minorities be great or small.”<sup>1</sup>

Mr. Edward Thompson, pointing out the absurdity of the demand for Pakistan, remarks with particular reference to Bengal :—

“You can and should help a backward major-

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<sup>1</sup> See Indian Year Book 1943-44 page 873.

ity to a higher level of economic and cultural life, but you have no right to subserve to such a majority's standards everything by which a nation has lived for a millenium." <sup>1</sup>

*Sikhs opposed to Pakistan* :—The Sikhs are an important minority in the Punjab. They are distributed all over the province, but constitute a considerable part of the population of the central Punjab. In the event of the separation of the Punjab from the rest of India, their position would be untenable. The Sikh All-Parties Conference vehemently rejected the Cripps proposals and declared that the population opposed to the idea of the separation should be given the right to record its verdict and to form an autonomous unit. They further declared that the Muslim majority in the Punjab was due to the inclusion of Jhelum and Multan districts which were conquered and added by Maharaja Ranjit Singh and retained by the British for administrative purposes. It is altogether unjust to allow such extraneous elements to dominate the future of the province. In the States of the Punjab viz., Patiala, Nabha, Kapurthala, Faridkot etc., the Muslims constitute barely 20 per cent and if the whole population of the Punjab including States is taken into account, the ratio of Muslim population will be further reduced. Finally the Committee stated :

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<sup>1</sup> Letter to the Spectator reproduced in the Sunday Statesman of Sept. 3, 1944.

"We shall resist, however, by all possible means, separation of the Punjab from the All-India union. We shall never permit our motherland to be at the mercy of those who disown it." <sup>1</sup>

*The Status of Kashmir in Pakistan* :—The status of the Kashmir State would be anomalous in the future Pakistan. It is mainly inhabited by Muslims and has been included in the Pakistan scheme, but it is ruled by a Hindu Prince, while Hyderabad is mostly inhabited by Hindus, but is ruled by the Nizam. With due regard to the traditional rights of the Princes under their treaties, which have been declared by the British Government to be inviolate and inviolable, Kashmir cannot be a part of Pakistan nor Hyderabad a part of Hindustan, but both can very well be the fully autonomous units of a new federal State.

Pakistan will not solve the Muslim Problem. Even if we concede for a moment the establishment of an independent Muslim State in the North West and the North East, it will not solve, the problem of the Muslims living in Hindu Majority provinces and States. Their number is given below.

Total population of Hindu majority pro- vinces (in British India).	Hindus Muslims	
	1972 lacs	1243 lacs 231 lacs

<sup>1</sup> See Indian Year Book 1943-44, page 843.



Total population of Muslim majority pro- vinces (in British India ).	Hindus	Muslims
	962 lacs	441 lacs 551 lacs

The above figures are those of provinces as they are constituted at present. If we redraw the boundary on more homogeneous and cultural basis, the number of Hindus in Muslim provinces will decrease while, on the contrary, the number of Muslims in Hindu majority provinces is sure to increase. There are 60 lacs Muslims living in Western Bengal and 30 lacs in Eastern Punjab. To these figures must be added the Muslim population living in Indian States. The total population of States is about 80 millions out of which 15 millions are Muslims. Leaving out of account Muslims living in Muslim majority area, *i. e.* in Kalat, Khairpur, Kashmir, Bahawalpur and other States in which Muslims are in a majority, we still get not less than 100 lacs of Muslims who would remain out of the Pakistan area. The total of all Muslims living in Hindustan and its States, after the boundaries of provinces are re-drawn, would be 420 lacs out of the total of 794 lacs. In other words, even if Pakistan is conceded, 52.5% Muslims would be living in Hindustan not as citizens but as foreigners; they would cease to owe allegiance to Hindustan and would look beyond to Pakistan to protect their rights. On the other hand, about 300 lacs of Hindus would find their lot cast in Pakistan. Surely it is not to keep half his co-relig-

ionists in a foreign State that Mr. Jinnah is clamouring for Pakistan. If he sees the above figures and faces facts the absurdity of Pakistan scheme will dawn upon him. Assuredly he counts on including the greater part of Bengal and the Punjab in his new state. The direct consequence of Pakistan on Muslims has been very aptly described by Prof. D. N. Banerjee in his brilliant article on the two-nation theory of Mr. Jinnah, in the Modern Review for March 1945, in which he remarks :

“ Either the Muslims of India form a part of the population of India and, therefore, form a part of the Indian people or they do not. If they insist that they do not so form a part, while living in the geographic boundary of India, then the rest of the people of India cannot be blamed if they begin to look upon the Muslims as foreigners and aliens in India at best domiciled aliens, to use a term of International Law.....”

Muslims rights would be safeguarded. The above reasoning leads only to the inference that the condition of Muslims in Pakistan would be definitely worse than in a united and federated India. In the Indian federation their fundamental rights will be guaranteed in the constitution ; their due share in the services will be assured to them. They will get weightage wherever they are in a minority. The provinces in which they are in a majority will enjoy full autonomy, and finally the whole resources of India will be utilized for the

development of the entire nation and the betterment of all the communities irrespective of religion. Their potential gains in a united India will be incalculable.

#### OTHER MINORITIES

Other minorities in India are Sikhs, Jains, Parsis and Indian Christians, Anglo-Indians and Europeans. The Scheduled castes stand in a class by themselves and require special treatment. Their numbers are given below :

	British India	States
Scheduled Castes	..399 lacs	89 lacs.
Sikhs .. ..	.. 42 ..	15 ..
Christians .. ..	.. 35 ..	28 ..
Tribes .. ..	..167 ..	87 ..
Anglo-Indians 2 (about)	125 (in the whole of India)	
Europeans .. ..	..2.80 ..	6 ..
Parsis .. ..	.. 1.0 ..	.12 ..
Jains .. ..	.. 5.8 ..	8.7 ..

Of the above minorities, the scheduled castes alone deserve special consideration. The rest are sufficiently advanced in education and political consciousness, and would hold their own in a mixed electorate. The Sikhs have to play a very important part in the future politics of the Punjab and in India as a whole. Their position in the new province which will be formed in the Eastern Punjab would be far more important than it is in the present Punjab in which they are everywhere in minority. Their strong opposition to the Pakistan project is well-known. Their

population would be split up in the event of the Pakistan passing from an idea into a reality and their position will be untenable, with a precarious and gloomy future before them. Their rights can be safeguarded only in a United India.

The Scheduled castes nominally forming part of the Hindu society, were, for long, treated as social outcasts. They deserve our best sympathies for the continued segregation and oppression at the hands of the so-called higher castes. However useful the ancient Hindu scheme of the division of society into castes and their graded importance might have been, it has no place in the society and serves no useful purpose to-day. Already there are unmistakable signs that the caste system is crumbling and it will not be long before the Hindu Society will be rid of this ancient and disruptive menace.

The right of Harijans to equal treatment in the eyes of law and in society have received recognition at the hands of enlightened people, mainly through the unceasing efforts of Mahatma Gandhi, and the Harijan Sevak Sangh, and as their economic lot improves, their problem would be easily solved. They must receive special and favourable treatment in matters of education, services and representation in the legislature. Considering their numbers, the representation given to them both in the Federal and the Provincial Assemblies is quite inadequate. They have been given only 19 out of the 105 general seats, in the

Federal Assembly while their numbers would warrant many more.\* The reservation of seats they enjoy under the Poona Pact ought to continue in the new constitution with the right to contest additional seats. This provision would safeguard their rights, and with the spread of education among them, bring about enormous social and political progress.

Regarding the Minorities' Problem we come to the following conclusions:—

(1) Homogeneous and autonomous provinces should be created so as to satisfy the legitimate aspirations of the people living in them.

(2) Reservation of seats in proportion to population should be allowed to all minorities with the right to contest additional seats.

(3) Separate electorates may be continued for the next five years, after which they will be re-considered and allowed if a community specifically desires them.

(4) Reasonable weightage may be given to very small minorities, *i. e.* those that are below 10%

(5) The fundamental rights of all citizens should be incorporated in the Constitution.

(6) The share of the minorities in the services and the ministry should closely follow their proportion in the legislature.

The above provisions will mostly allay the fears

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\*See the comparative table given on page 54.

of the minorities and safeguard their legitimate rights and interests.

(ii) THE RE-DISTRIBUTION OF PROVINCES.

India consists of British India and Indian States. British India comprises eleven Governors' provinces, and four Chief Commissioners' provinces, while Indian States number not less than 562 in all. The problem of Indian States, their re-grouping and entry in the Federation have been dealt with in the next part of this chapter.

It will be observed at a glance at the composition of the provinces that their formation does not depend upon any clear-cut principle, but purely on political exigency or administrative convenience. There is no cultural or linguistic homogeneity in the make-up of a province. "Several of the Provinces present features rivalling in their heterogeneity India itself." Every province abounds in a number of distinct cultural and linguistic divisions, whose interests are difficult to reconcile. The linguistic heterogeneity will be evident from the following :—

Province	Main Linguistic divisions
1. Bombay	Marathi, Gujarati, Kanarese, and Hindi.
2. Madras	Telugu, Tamil, Kanarese, Tulu, and Malayalam.
3. Bengal	Bengali, Hindi and Urdu.
4. United Provinces	Hindi and Urdu.
5. Bihar	Hindi and Urdu.

Province	Main Linguistic division
6. Central Provinces	Hindi and Marathi.
7. Punjab	Urdu, Hindi and Punjabi.
8. Assam	Assamese, Urdu and Bengal
9. Orissa	Oriya.
10. Sindh	Sindhi, Urdu and Hindi.
11. N. W. F. P.	Pashto and Urdu.

Diversity of language is a great hindrance in the path of cultural and political progress of a provincial unit. It may be admitted that English is spoken and understood throughout the length and breadth of India thanks to English education, but it is limited only to a very small fraction of the population. Language is probably the biggest single factor in bringing about cultural advance and spiritual regeneration both finally moulding the national characteristics. The language and the culture of a provincial unit would not be necessarily inconsistent with the wider culture of the nation as a whole. Indian language in general have received step-motherly treatment so far, due to the heterogeneous character of the provinces and it would be bringing about a reform long over-due, if language is made the basis of the redistribution of provinces, at least so far as British India is concerned. Moreover, some of the provinces are too unwieldy for administrative purposes and ought to be made more manageable in size. Madras, Bengal and United Provinces are instances in point. They are bigger than many smaller countries of Europe and consist of 49, 60 and

55 millions of people respectively. From the point of view of size and population also, redistribution of provinces is desirable. Further as it will result in the creation of more or less homogeneous provinces, it will greatly help to dispel communal misgivings and minimise causes of friction, particularly in Bengal and the Punjab.

Applying the test of linguistic and cultural homogeneity to the British Indian Provinces, we get the following result :—

(1) The Bombay Presidency has a population of 208 lacs and includes three distinct linguistic areas. It should be split up into three units as given below :

(i) Maharashtra, which will include all the Marathi speaking districts including the city of Bombay. It will have a population of about 11.65 millions.

(ii) Gujerat, which will include all the Gujerati speaking area, mainly comprising the northern circle of the Bombay Presidency, having a population of 5.5 millions.

(iii) Karnatak, consisting all the Kannad speaking area, comprising the districts of Bijapur, Dharwar, Belgaum, Hubli and other Kanarese parts of Presidency. All these will have a population of 3.7 millions.

(2) The Madras Presidency has a population of 493 lacs and includes Tamil speaking area, Telugu



area and Malayalam area. The Malayalam area lies to the west and is contiguous with Coorg which is under a Chief Commissioner. Both can be conveniently combined into a province and placed under a Lieut. Governor. This will give the inhabitants of this area provincial autonomy, which it would not be possible to concede to the people of Coorg only. The Unit thus formed would be small enough, but bigger than many states which will continue their existence unimpaired. There are about 35 lacs of people speaking Malayalam. Surely if their area is self-supporting, they ought to enjoy autonomy and manage their own affairs.

(i) Similarly the Tamil speaking area which lies in the centre and southern parts of the Presidency ought to be formed into a province with its headquarters at Madras.

(ii) The Telugu speaking area which occupies the Northern Sircars and the districts to the South of the Nizam's Dominions will be made a separate province, named Andhra. The demand for a separate province of Andhra is very old and perfectly justified on cultural grounds.

The Kanarese speaking area of the Madras Presidency will be included in the Province of Karnatak which will be formed of the Kanarese speaking districts of Bombay.

(3) The problem of the re-arrangement of the Punjab and Bengal is mixed up with the wider Hindu Muslim problem and has already been considered in

some detail in an earlier section of this chapter. As has already been pointed out, there is a Muslim majority in Bengal. The distribution of population according to the census of 1941 is as follows :—

(In thousands)

Muslims	33,371	54.3 %
Hindus	25,801	43.0 %
Others	1,128	2.7 %
<hr/>		
60300		

The distribution of population is such that the northern and the eastern districts are overwhelmingly Muslim, while the southern and western are predominantly Hindu. There is, therefore, no possibility of any community dominating the province as a whole. Out of the 28 districts of the Presidency, 14 districts, *viz.* Nadia, Jessore, Rajshahi, Rangpur, Bogra, Pabna, Dacca, Faridpore, Bakarganj, Mymensing, Tippera, Noakhali, Chittagong, and Murshidabad are predominantly Muslim areas. Ten districts *viz.*, Burdwan, Birbhum, Bankura, Midnapur, Hooghly, Howrah, Twenty-four Parganas, Calcutta, Jalpaiguri and Darjeeling are mainly Hindu areas, while the four districts of Khulna, Dinajpur, Malda are fairly evenly populated and the district of Chittagong Hill Tracts contains only 18% Hindus, 4% Muslims and 78% tribal people.

Though the Muslims are more numerous, Hindus are far more important in respect of education, wealth and general progress. Unfortunately by the communal award of 1932, their political position has been com-

pletely subordinated to that of the numerical majority and their interests have been sacrificed to give special representation to Europeans and Industry. If at some future date, the Hindus happen to be entrusted with the destinies of the Presidency, Muslim resentment will be wide-spread. The only way out of this predicament would be to separate the predominant Hindu areas from the Muslim districts, which are fairly contiguous and clear-cut. The four districts with an even population will also be divided between the two areas on communal basis. The Sylhet district of Assam which is chiefly inhabited by Muslims may be conveniently joined to the Bengal Muslim area while the Bengali-speaking parts of Bihar can be added to the Western Bengal Province. The Muslim province of Bengal may have its headquarters at Dacca which is a great centre of Muslim culture and has a University. This new division of Bengal may not appeal to many, but in the present state of communal antagonism, it would appear to be the only possible and fair solution of the problem.

The new province of Dacca (without Sylhet District) will have an area of 4568489 miles and a population of 303 millions with 28.7% Hindus and 71.3% others, while the Western Bengal Province, which may in future be continued to be called Bengal will consist of 301 million people with 30.7% Muslims and an area of 3.737 sq. miles. It is needless to add that both the provinces will be entirely self-supporting

and will enjoy full autonomy in the Indian Federation.

(4) Assam is mainly an Assamese speaking area. The distribution of population is 45 lacs Hindus, 35 lacs Muslims and about 25 lacs of tribal population. The total population is one crore and 2 lacs and the area is 55,014 sq. miles. As has been already pointed out, the Sylhet district of Assam is predominantly a Muslim area and the Muslims there have greater with the Bengal Muslims in respect of language affinities and culture. The district has a population of about 30 lacs out of whom more than 60% are Muslims. This fact had been admitted by the Simon Commission also\* and a resolution to amalgamate the district with Bengal was passed in the Assam Legislative Council.

The move to include the whole province of Assam in the Pakistan scheme is both mischievous and absurd. If democracy means anything, Assam cannot form part of Pakistan.

(5) Bihar and Orissa together formed one province before 1937. With the introduction of provincial autonomy in India in April 1937 the Oriya speaking districts of Bihar were separated and some areas from Madras and C. P. were added constituting a separate province, which has an area of 32,695 sq. miles and a population of 81 lacs in which there are only 2% Muslims.

(6) After the separation of Orissa, Bihar is a far

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\* I. S. C. Report, vol. 1, Survey, p. 74

more homogeneous unit than it had been. No change is called for with regard to it. The area of the province is 69, 348 sq. miles and the population is 363.4 lacs out of which about 10% are Muslims and 6% tribal people.

(7) The Central Provinces with an area of 82,109 sq. miles are broadly divided into two areas, the southern Marathi speaking area and the northern and western Hindi speaking area, while Berar is mainly Marathi speaking. Berar with the Marathi speaking parts of C. P. can be very conveniently formed into a separate province, while the Hindi speaking area, which is also known as Mahakoshal will be a separate province with its headquarters at Jubbulpore. The Marathi speaking area will include Berar and the Nagpur Division of the C. P. which will have an area of 41,277 sq. miles and a population of about 58 lacs, while Mahakoshal will have an area of 58,492 sq. miles and will be formed of the remaining divisions of C. P. *viz.*, Jubbulpore, Hoshangabad and Chattisgarh with a population of about 1 crore and 10 lacs. Both the provinces so constituted will be entirely self-supporting from the administrative point of view.\*

(8) The United Provinces of Agra and Oudh spread from the borders of the Punjab and the foot of the Himalayas to the western borders of Bihar. Its area excluding that of Rampur and Benares is 106,247 sq. miles and the total population is 49, 614, 833, out

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\* See the Table at the end.

of which 83.27% are Hindus, 15.28 are Muslims and 1.44 other communities. It has 48 districts out of which 36 are in the Agra Province and 12 in Oudh. From the point of view of area and population, the U. P. administration is rather over-burdened and should be relieved by the separation of the north-western districts, especially the Meerut Division, which has greater affinity with the Delhi area, both being mainly inhabited by Jats; similarly the eastern districts, particularly Gorakhpur, Ballia, Azamgarh, Mirzapur and Gazipur, the people of which have very close cultural and linguistic affinity with the people of Bihar may be preferably added to Bihar. It should be noted that the move to have a separate province for Delhi and the area round about is already afoot and deserves to be given full consideration. It has been already submitted that the eastern Punjab should be constituted a separate province. The districts separated from U. P. could be with great advantage added to the new Delhi province. The claims of the Sikhs to have a separate province of their own in the Central Punjab may also be considered in this respect, but it would appear that they have a clear majority only in one district viz. in Ludhiana where they are about 42% and along with Hindus, they would command majority in the District of Hoshiarpur, Jullunder, Amritsar, Patiala and parts of Ambala and Gurgaon. The area of these six districts is 6,364 sq. miles and the percentage of Hindus and Sikhs in the population is 36.5 and 25.6 respectively. A much better

solution of the problem would be to have a separate province in the eastern Punjab (see the following section).

(9) *The Punjab*:—As in Bengal, the province includes different communities inhabiting different majority areas Muslims dominating the Western, the Sikhs the central and the Hindus the eastern districts. The distribution of population is as follows:—

	(In lacs)	Percentage
1. Muslims	..... 1.62	57.8
2. Hindus	..... 75 (including Scheduled castes)	26.4
3. Sikhs	..... 35.5	12.5
4. Others	..... 9.5	3.3

Fortunately there is no fear of one community completely eliminating the others and the province has contiguous communal areas. The seventeen districts of Western Punjab along with parts of Gurdaspur, Ferozepur, and Amritsar ought to form a separate State, while the eastern Punjab districts with the north-western districts of U. P. added would be the province of Delhi. The proportion of Hindus, Muslim and Sikhs in the new province would be nearly 50%, 30% and 15%. Why the eastern Punjab cannot be included in the Pakistan scheme has been already discussed in part (i) of this chapter. The partition of the Punjab would offer ample scope for the progress and development of all the communities and set at rest their fears of domination by others. It will make

administration less burdensome, and reducing the causes of friction, allow each community to develop according to its own culture and traditions. The list of districts to be included in the (Western) Punjab province and the Delhi province is given below:—

The (Western) Punjab Province	1. Lahore, 2. Sialkot, 3. Sheikh-pura, 4. Gujranwala, 5. Gujerrats 6. Montgomery, 7. Lyallpur, 8. Multan, 9. Jhang, 10. Shah-pura, 11. Jhelum, 12. Rawalpindi, 13. Attock, 14. Mianwali, 15. Gurdaspur, 16. Dera Gazi Khan, 17. Muzaffargarh.
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The eastern Punjab or Delhi Province. (Brackets indicate percentage of population.)	1. Hissar (66), 2. Rohtak (H. 78), 3. Gurgaon (H. 66), 4. Karnal (H. 67), 5. Ambala (H. 53, S. 15), 6. Simla (H. 71), 7. Kangra (H. 94) 8. Hoshiarpur (H. 53, S. 14). 9. Ludhiana (H. 23, S. 42). 10. Amritsar (H. 22, S. 31). 11. Jullunder (H. 30, S. 26). 12. Ferozepur (H. 28, S. 28).
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(10) *North-Western Frontier Province*:—The N. W. F. P. was formerly a part of the Punjab. The area of the province is 13,518 sq. miles and the total population is 30.3 lacs out of which one lac and 80 thousand are Hindus and 58 thousand are Sikhs. It was separated from the Punjab in 1901 and placed



under a Chief Commissioner. It was raised to the status of a Governor's province in 1935. No change is called for in regard to this province.

(11) *Sindh* :—The problem of the separation of Sindh from Bombay Presidency engaged the attention of politicians in India for a long time. Hindus strongly opposed it, while the Muslims urged it mainly on communal grounds. It has an area of 46,378 sq. miles and a population of 45·3 lacs out of which 11·9 lacs are Hindus and 31,000 Sikhs. It should be remembered that Sindh owes much of its present position to its association with Bombay and since it has been separated it is receiving a subvention of Rs. One crore and 10 lacs from the Central Government. N. W. F. P. gets a subvention of Rs. One crore per year.

Sindh is a geographical and a fairly homogeneous unit and on this basis the Nehru Committee favoured its separation subject to financial self-sufficiency. Accordingly it was created a separate province with effect from the 1st of April 1937. In the event of Sindh and N. W. F. P. joining Pakistan and seceding from the rest of India, evidently they should not expect any financial relief from the Government of India. It has already suggested that the finances of Pakistan will almost verge on bankruptcy.

(12) *Baluchistan* :—There are, in all, six Chief Commissioners' provinces: Ajmer, Delhi, Coorg, Baluchistan, Panthpipoda, and Andamans and Nicobars. Of these little change is possible in respect of

the last two provinces. With regard to Coorg it has been already suggested that it should form part of the province of Keral. With the separation of the eastern districts of the Punjab, Delhi would be amalgamated with them excluding Delhi proper or that part of Delhi province which is within the municipal limits of the city, which would continue to be under the Federal Government.

The problem of Baluchistan is, on account of its strategic position and limited finances, a little difficult to solve. British Baluchistan has an area of 9476 sq. miles, and Baluchistan leased and Tribal areas have an area of 44,345 sq. miles and have a population of about 9 lacs. It is a deficit province, with very little rain and unproductive soil. Its income is out-weighted by its heavy expenditure, the greater part of which is incurred for political purposes. As it is, it is doubtful if British Baluchistan could be self-supporting from an administrative point of view. It must be, however conceded that the claims of Baluchistan to provincial autonomy are unassailable and should be limited by financial considerations. If Dera Gazi Khan district of the Punjab which lies beyond the Indus is separated from it and included in Baluchistan, the chances of the province would certainly improve. The tribes already enjoy self-government of a special kind. "The keynote of administration in Baluchistan is self-government by the tribesmen, as far as may be, by means of their Jirgas or Council of Elders along

the ancient customary lines of tribal law.”\* The Nehru Committee generally approved of granting autonomy to Baluchistan. Further, the province is obliged to spend large sums of money for policing duty on account of its strategic position, which ought to be, in fairness, contributed by the future Federal Government, of course on the assumption that Baluchistan remains a unit of the Federation.

It is needless to add that Baluchistan and N.W. F. P. would be subject to greater control and supervision by the Federal Executive than other provinces owing to their peculiar strategic importance in the defence of India.

(13) *Ajmer-Merwara*:—Ajmer-Merwara has so far been administered by a Chief Commissioner. In our scheme for a federation there is no place for irresponsible administration in any province or State. It would be easily admitted that autonomy which is enjoyed by all the other provinces cannot be withheld either from Baluchistan or Ajmer, however, small they might be as units. Ajmer is much smaller in area than the other province, being only 2400 sq. miles, and has a population of 5,84,000. As it is surrounded by Rajputana States, it can be admitted as a separate unit of the Federation or it may preferably form a unit of the Sub-federation of Rajputana States.

The re-distribution of provinces described above gives us twenty provinces in place of the present

\* See Indian Year-Book, page 160. (1943-44).

seventeen. The number of units of the Federation would be forty-eight out of which twenty-eight would be State units and the rest provincial units. Out of the 20 provincial units, 15 would be Governors' provinces and 5 Lieut. Governors' provinces as given below :—

*Governors' Provinces* :—1. Madras, 2. Andhra; 3. Orissa, 4. Bengal, 5. Dacca, 6. Assam, 7. Bihar, 8. Karnatak, 9. U. P. 10. Delhi, 11. the Punjab, 12. N. W. F. P., 13. Sindh, 14. Gujerat, 15. Maharashtra.

*Lieut. Governors' Provinces* :—1. Keral, 2. Mahakoshal, 3. Baluchistan, 4. Central Provinces and Berar, 5. Ajmer.

The increase in the number of provinces will result in an increase in provincial expenditure. For this the provincial budgets will have to be re-adjusted by prescribing smaller grades of pay for the Governors and other officers of the provinces, which would lessen the burden of administrative expenditure. As a matter of fact, the whole subject of emoluments to the bigger officers deserves to be reconsidered with a view to reduction in federal and provincial expenditure.

It is necessary to add in this connection that the appointment of a Boundaries Commission should be one of the earliest acts of the Federal Government, after the establishment of the Federation, which will consider the problem of the re-distribution of provinces on a homogeneous basis.

## (iii) INDIAN STATES PROBLEM

The Indian States problem is a major and baffling issue in the Indian Constitution. The number and extent of the States make it complicated and difficult of solution. There are, according to the Butler Committee Report, 562 States in all and they extend from Kashmere in the far north to Travancore in the extreme South, and from Kalat in Baluchistan to Manipur on the Burma border. They present an infinite variety of administrative autonomy.

The Butler Committee Report states :

“ The term Indian State is, in fact extremely elastic as regards both size and government. It covers, at one end of the scale, Hyderabad with an area of 82,700 sq. miles, with a population of 12,500,000, and a revenue of  $6\frac{1}{2}$  crores of rupees or about £ 5,000,000, and, at the other end of the scale, minute holdings in Kathiawar, amounting in extent to a few acres only, and even, in certain cases, holdings which yield a revenue not greater than that of the annual income of an ordinary artisan. It includes also states, economically, politically and administratively advanced, and states, patriarchal, quasi-feudal in character which still linger in a mediaeval atmosphere ; states with varying political powers, constitutional states like Mysore and Travancore and states which are under purely autocratic administration. The one feature common to them all is that they are not

part, governed by the law, of British India. ....

Truly it may be said that the Indian States are the Indian India."

Officially they are divided into three classes :

- (1) States the rulers of which are members of the Chamber of Princes in their own right. They number 108.
- (2) States the rulers of which are represented in the Chamber of Princes by twelve members of their own order. Their number is 127.
- (3) Estates and Jagirs which have no representation in the Chamber. They are 327 in number.

The States in class (3) are little better than small estates, whose total income is not more than 1 crore of rupee or roughly 2% of the total income of States, while the proportion of their population, which is about 9 lakhs, is about one per cent of the total population of States. They enjoy only limited rights over their people and their status is, on the whole, similar to that of the Talukdars of U. P. or the Zamindars of Bengal. While discussing the status of Indian Princes, the Butler Committee remark :

"We may say at once that, in the main, our remarks and proposals have in view the first two classes only of Indian States the rulers of which have, in greater or less degree, political power, legislative, executive and judicial, over their sub-

jects.....It is obvious that they ( the third class states ) are placed differently from the larger states and called for treatment in groups rather than individually. ”\*

Even according to Government and the Butler Report they are grouped as estates and Jagirs. It would, therefore, be perfectly legal and natural to leave them out of account in the Federation.

Without entering the historical aspect of the problem and its implications, it can be safely asserted that Indian States, especially the bigger ones, enjoy autonomy so far as their internal affairs are concerned.

It has been contended that the Princes, when they entered into treaties with the East India Company, were sovereign, but later their sovereignty under the treaties, was not respected by the British Government who acquired supreme power over the whole of India. The whole political situation, after the treaties were entered into underwent a complete change as the British assumed the rights of paramountcy over the whole country, and they in effect, became more or less a dead letter.

This contention, though apparently plausible, is not quite sound. The Princes who entered into treaties with the E. I. Company were subordinate to one or other of the powers then existing, the Mughal or Maratha. The Indian States Committee rightly observe in their Report:\*

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\* See Butler Committee Report, page 8 and 22.

“ It is not in accordance with historical fact that when the Indian States came into contact with the British Power they were independent, each possessed of full sovereignty and of a status which a modern international lawyer would hold to be governed by the rules of international law. In fact, none of the states ever held international status. Nearly all of them were subordinate or tributary to the Moghul Empire, the Maratha supremacy or the Sikh Kingdom, and dependent on them. Some were rescued, others were created by the British. ”

“ The paramountcy of the Crown, acting through its agents, dates from the beginning of the nineteenth century when the British became the *de facto* sole and unquestionable paramount power in India. ”

Lord Reading has very clearly brought out the rights of the paramount power over Indian States in his historic letter to the Nizam :

“ The sovereignty of the British Crown is supreme in India, and therefore no ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independently of them. ”

The right of the paramount power is thus absolute and unquestionable. But it is only a supervisory right and liable to be exercised only when



Imperial interests or the general welfare of the people in States are seriously endangered. The paramount power guarantees to maintain unimpaired the privileges, rights and dignities of the Princes and to defend them against internal and external danger. But this duty to protect the Princes carries with it the obligation not to lend support to misrule or gross injustice. As early as 1820, the Government of India had to intervene in the affairs of the Hyderabad State, which were in a chaotic condition. Later on again the Court of Directors instructed the Indian Government to intimate to the Nizam through the Residency that they could not remain "indifferent spectators of the disorder and misrule." In the well-known Baroda case (1873-1875) Lord Northbrook wrote to the Baroda Ruler:

"Misrule on the part of a government which is upheld by the British power is misrule in the responsibility for which the British Government becomes in a measure involved. It becomes not only the right but the positive duty of the British Government to see that the administration of a state in such a condition is reformed, and that gross abuses removed."

It would, therefore, be safe to conclude that neither in their origin nor in actual practice can the Indian Princes be deemed to be sovereign. Subject to the rights of the paramount power, the States enjoy internal sovereignty, to use an expression of Sir

Henry Maine, though in many cases, in the smaller states, the powers enjoyed are more apparent than real. Sir K. M. Panikkar says:

“ The interference of the Government of India in the internal affairs of the States . . is comprehensive and pervading, it reduces to a shadow the authority of the Ruler and it assumes under the cover of indigenous agency full sovereign rights, though obviously this is directly contrary to treaty engagements. ”\*

#### (II) DIRECT RELATIONS WITH THE CROWN.

The Indian Princes strongly maintain that their relations are with the British Crown and the rights and obligations of the Paramount Power should not be assigned to an Indian Government in British India responsible to an Indian legislature. The theory of direct relationship with the Crown has originated from an inherent apprehension of a future government in India, responsible to the people. This claim has been admitted by the Indian States Committee. They observe :

“ We feel bound, however to draw attention to the really grave apprehension of the Princes on this score, and to record our strong opinion that in view of the historical nature of the relationship between the Paramount Power and the Princes, the latter should not be transferred without their

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\* Indian States and the Government of India, quoted in G. N. Singh's Indian States and British India, page 48.

own agreement to a relationship with a new government in British India, responsible to an Indian Legislature.

With regard to this theory, it may be submitted that almost all the treaties and engagements entered into by States were with the East India Company and not with the Crown. When the government of India was assumed by the British Crown in consequence of the great revolution of 1857, it succeeded to all the rights and obligations of the East India Company with regard to the government in India. Even after this assumption, the Government of India exercised all the rights and privileges of the Crown as the representatives of British Government in India. The Government of India has no independent existence. If it had, the contention of the Princes that they should not be transferred to a new government would be perfectly valid. So long as the Government of India is subordinate to or forms a part of the British Government, there is no question of a transfer of allegiance. The new government of India, responsible to an Indian legislature, would legally exercise all the rights and would be liable for all the liabilities of the present Government of India which is responsible to the British Crown.

Unless there is a complete break with the past, which is unlikely and beyond the range of practical politics, the future government of India would be liable to maintain the status and privileges of the Princes



aggregate population of the States and entitled to not less than half the seats to be allotted to the States in the Federal Upper Chamber have signified their desire to accede to the Federation, and an address is presented to the King by each House of Parliament to inaugurate the Federation.

The first great difficulty that confronts us in this connection at the outset is the inordinately large number of states. The total number is 562. Of these "as many as 454 have an area of less than 1000 sq. miles, 452 states have less than one lac of population, and 374 states have a revenue of less than one lac rupees. It is only thirty among the 562 states that possess the area, population and resources of an average Indian district." We have suggested above that the third class of states numbering 327 are merely Jagirs and Estates and enjoy only limited executive and judicial—rights. As such they should be left out of account and can claim no legal right to be represented in the Federation. Of the remaining 235 states, there are only forty treaty states, a larger number have some form of engagement or sanad ; the remainder have been recognised in different ways, but it is doubtful if they enjoy full autonomy in practice. It is obvious that the two hundred and more states cannot be separate units of the federation. There must be a minimum standard of administration which must be satisfied by a state desiring to be a separate unit.

Under the Government of India Act of 1935, the

allocation of seats works out on an average, at one representative for  $5\frac{1}{2}$  lacs of people in the Federal Assembly and  $7\frac{1}{2}$  lacs in the Council of State for Indian States. Every separate unit should send at least one representative in either House. From the point of view of income no state having an annual income of less than 50 lacs of rupees can be considered to satisfy the minimum standard of administrative efficiency.

“ Years ago Lord Irwin (now Lord Halifax) in a confidential memorandum urged the Princes to put their houses in order and maintain certain minimum standards of administration.”<sup>1</sup>

In 1939 the Political Department of the Government of India issued a circular asking all States with an annual revenue of less than Rs. 20,00,000 to join regional confederations. It may be suggested in this regard that even this figure is too small to maintain a moderately efficient administration. I have, therefore, proposed Rs. 50 lacs above as the minimum income,<sup>2</sup> All states with a population of 5 lacs and an income of 50 lacs each may be regarded separate units of the Federation and the rest may be grouped in regional confederations, which will perform some common functions. The rights and privileges of the individual states forming the confederation will remain unimpaired.

<sup>1</sup> Indian Year Book, 1943-44, page 226.

<sup>2</sup> The above suggestion is a slight variation of the proposal in a resolution adopted by the All India State People's Conference held at Ludhiana in 1936.

ed. They will have a common High Court and two legislative bodies, the lower house representing the people of the State, according to population and the upper house representing the rulers. The list of federal subjects will not be very extensive so that the states will be left with large autonomy. Common revenue, educational, industrial policies and such other subjects will be dealt with by the regional sub-federation while the execution of the policies will be left to the individual states. It should be noted that the proposal of regional sub-federations for smaller states was submitted to the Paramount power by the representatives of Deccan States and is eminently practicable.\* Such sub-federations will lead, in future, to closer co-operation and unity among the smaller states and will minimise the separatist and individualist tendencies so common among them.

Applying the two fold test of population and income, we would get about twenty states, noted below, which can be separate members of the Federation. The remaining full power states would form sub-federations, more or less homogeneous in character. Certain states like Khairpur in Sindh, Manipur in Assam, Tipperah on the Bengal Border, and Cooch Bihar in Bengal, which are not big enough to be made separate units of the federation and are so situated that they cannot be included in a sub-federation, may be either directly represented in the Federal legislature

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\* See Indian Year Book, 1943-44, page 226-27.

or in the provincial unit to which they geographically belong. Even if they are directly represented in either legislature, they should be judicially sub-ordinate to the Provincial High Court.

Separate State Units of the Federation :—

(1) Hyderabad (2) Mysore (3) Kashmere (4) Gwalior (5) Baroda (6) Kalat (7) Travancore (8) Kochin (9) Jaipur (10) Jodhpur (11) Udaipur (12) Bikaner (13) Kolhapur (14) Indore (15) Patiala (16) Alwar (17) Bhopal (18) Rewa (19) Bahawalpur and (20) Rampur.\*

The remaining states would form sub-federations as under :—

- (1) Punjab States Federation.
- (2) Central India States Federation.
- (3) Bundelkhand States.
- (4) Orissa States.
- (5) Central Provinces States.
- (6) Deccan States.
- (7) Rajputana States.
- (8) Gujerat & Kathiawar States.

The names of different states falling under the above federations are given in the appendix.

All the Salute States and other full power States would be provided for as described. The third class of so-called state has been already dealt with. The remaining states falling in the second class, but which

\* The list of separate State Units mentioned here is only illustrative. The final list will have to be determined by a Sub-Committee of the constituent assembly with adequate State representation.



do not enjoy full powers, could be very easily merged into bigger States or British India subject to their privileges remaining intact. Such a Merger Scheme has been already adopted by the British Parliament and is being acted upon with regard to the small states of Kathiawar and Gujerat.

#### (IV) RESPONSIBLE GOVERNMENT IN STATES

It should be not only desirable but essential for the States joining the Federation to have elected legislative assemblies. The Executive Councils should have a partial element of responsibility to begin with and should become completely responsible to the legislature within a period, of ten years at the latest. In States like Mysore and Travancore it may be even earlier. When we consider the whole problem dispassionately we can, generally speaking safely conclude that the introduction of the element of responsibility would result, in most cases, in the selection of responsible men, amenable to public pressure and calculated to do far greater good for the welfare of the people concerned than is the case at present.

It is said in certain quarters that the introduction of responsible government in states is not compatible with their obligations to the paramount power. As we have already noted there is no obligation, on the paramount power while introducing the Federation, to insist on the State units to move towards representative or responsible government. On the other hand, it may be assumed that partial respon-

sibility was conceded to the Federal Government only on the basis of the States joining the Federation and retaining their conservative character. "Federal constitutions generally guarantee the maintenance of popular institutions in the units. The Paramount Power which functions outside the Government of India Act of 1935 has undertaken to maintain the authority of the Rulers perpetually.

Sir C. P. Ramaswami Iyer, the Dewan of Travancore, raised the constitutional issue that the Indian States cannot grant responsible government to their people without encroaching upon the obligations of the Princes to the Paramount Power and that it was necessary to obtain the explicit consent of the Crown in this respect. Sir Shanmukham Chetty, the Dewan of Cochin observed in similar tone :

"At present the Ruler of an Indian State enabled to discharge those obligations (*i. e.* to the Paramount Power) because legally he is an autocrat and the problem has to be thought out as to how far the Ruler of a State can reconcile that position of responsibility to the Paramount Power, when once he divests himself of that responsibility with regard to the internal administration of the State."

On a question being put to that effect by a Member in the Parliament, Earl Winterton, replying on behalf of the Secretary of State for India, stated that it was not the policy of the Paramount Power

in ordinary circumstances to intervene in the internal administration of the full-powered States. In particular he gave an assurance that the Paramount Power would certainly not obstruct proposals for constitutional advance initiated by a Ruler.\* Further, far from being an impediment, responsible government States will be greatly helpful to the Princes. N. D. Varadachariar, in his well-known book, "Ind States in the Federation," remarks:

"One would have thought that a responsible executive supported by public opinion would be in a stronger position than an autocratic Ruler in this matter if the welfare of the State and justice between the parties were alone to be regarded. At present a Ruler mindful of his State's interests and anxious to preserve its internal autonomy is so unable to keep off the usurpations of the Paramount Power of which one hears so many complaints. He has to submit to the usurpations because there is no organized public opinion in the State to back him in his opposition to any unjust exercise of paramountcy. The establishment of responsible governments in the State, therefore, seems to be the one way of restricting paramountcy to its proper field of action."

W. J.

It must not be forgotten that the term India

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\* Quoted in Prof. Joshi's New Constitution of India, page 3-4 note.

States does not merely signify the Princes. It includes the rulers as well as the people, living in States. Legally the Prince is the head of the State and enjoys certain rights and privileges, and has to perform certain duties for the welfare of his people. He has to exercise his rights primarily for and on behalf of his subjects. His powers are in the nature of trust of which the beneficiaries are the people. Morally and practically the Princes and their people together make up the State and neither has a separate existence divorced from the other. The progress of the State depends upon the extent to which the moral rights of the people develop into legal rights and the whole administration becomes responsible to public pressure. Responsible government in States is not only the natural but the inevitable outcome of the present situation in India. Enlightened Princes need not be apprehensive of this new development in Indian States. The ultimate basis of every state in the modern world is the will of the people and in this respect they cannot do better than adopt the constitutional example of the British Crown and ensure their continued existence and status in the new federal structure of India.

- Responsible Government may not be a condition precedent to the States joining the Federation, but the establishment of legislative assemblies should certainly be. In course of time, the State executive would be responsible to the Legislature in all matters excepting a fixed privy purse and relations with the ~~foreign~~ -

Power. Defence would be an entirely federal subject and the States would not be burdened with any responsibility in that sphere. The intervention of the paramount power will diminish in proportion to the extent of responsible government introduced in the States and after a time it is bound to vanish altogether. In its place will emerge the juridical relation between the Federal Government and the States, each working in its properly ascertained—sphere and adjudicated upon by the Federal Court in case of doubt or dispute.

It would appear from the above discussion that the entry of the States in the Federation will not entail any real diminution of their internal sovereign rights. In some matters they may appear to lose slightly, but as against this they will acquire the rights of participating in all-India policies and administration. No State would be subordinate to any other State; all will form component parts of the Federation, and tributes, the insignia of their subordination will disappear altogether. Their powers will be well-defined and any infringement of their rights will be adjudicated upon by the Federal Court.

#### (iv) THE DIVISION OF POWERS

The essence of a federal constitution is the division of powers between the federation and the units and a supreme tribunal to adjudicate upon the rights provided in the constitution between them and between the units *inter se*. Subjects that are common

to all the units and necessitate a uniform and centralized policy and control are generally assigned to the federation, while subjects that primarily concern the units and are local in their character are reserved for the units.

Under the Government of India Act of 1935, three lists have been drawn. List I which is federal includes All-India subjects as Defence, External Affairs, Railways, Posts and Telegraphs, Currency and Coinage, Customs etc. List II is the Provincial legislative list and List III is concurrent. The Federation and the Provinces can both legislate on the subject in List III, but the provincial legislation on any subject is to be null and void to the extent to which it conflicts with any federal legislation on the same subject. With regard to residuary powers it has been provided that the Governor-General may assign them to the Federation or the units, as he may decide.

So far as the Indian States are concerned, all the subjects delegated by them to the federal authority in their Instruments of Accession are federal subjects, while the rest are reserved to the States. A very great latitude is allowed to States, which is denied to the provinces. Further it is not clear whether the Federal List with regard to States would be uniform or would depend upon their acceptance of the legislative power of the federation. It may be remarked in this connection that Items 1-47 were generally

approved by the State delegates to the Round Table Conference, while the remaining Items 48 to 59 have been included as 'central' subjects. This lack of uniformity of federal subjects, is likely to give rise to great confusion and litigation.

While it may be admitted that States would have to surrender some of their legislative power to the Federation, it may be reasonably expected that the division between the legislative field of the Federation and the States should be clear-cut and uniform and should not be subject to the execution of the Instrument of Accession by individual States.

On a perusal of the subjects in the Federal List, it will be found that Items 1-43 are entirely acceptable to all the units. The main objection of States would be to Item Nos. 44, 45, 46, 47, 54, 55, 56 and 58, which are mainly financial items. They should be dealt with in some detail.

No. 44. Customs with regard to this item it may be said that this is invariably in the federal sphere. Further, it may be submitted that the internal customs duties, generally imposed by many States are repugnant to the federal idea of union, and consequently this impost on goods entering or leaving their boundaries should be discontinued. The duties are not very heavy and resemble octroi duties and many States depend on them for balancing their budgets. The States incurring losses should get relief by the

abolition of their tributes and the decrease of their defence expenditure, or subsidy.

No. 45. Duties of excise on tobacco etc. With regard to this it may be suggested that this head may be fully assigned to the units. The States impose excise duties on tobacco and other things, and if the same power is given to the provincial units, it will ensure uniformity and add a much-needed source of income to the provinces.

No. 46. Corporation Tax. The present arrangement with regard to taxing of the income of companies decided upon between the Centre and the States appears to be fairly workable. It will not be levied in the States for the first ten years of the Federation; and a Ruler may demand that it will be paid in lump sum. The States feeling on the matter of direct taxation by the Federation in States arises from an excessive notion of sovereignty and will be eased when the principle of federation or union of States for common purpose is considered in its right perspective. If the companies functioning in States are directly taxed, it does not derogate from the sovereignty enjoyed by them.

Item No. 47. Salt. This subject ought to remain in the federal sphere to ensure uniformity of taxation, but the income from salt should be divided between the federation and the units concerned. Some States have entered into agreements with the Government of



India in this respect and those agreements should be taken into account in fixing the share of units. As salt is an essential commodity, the tax on salt should be minimised.

Item No. 54. Income Tax. This is an important source of federal income. With regard to this tax, there is a strong feeling against its inclusion in the federal, as it is a very elastic and considerable source of income, vitally needed by the provinces for nation-building services. The White Paper proposals were for assigning 50% of the income from this tax rising to 75% after a term of years. The Joint Select Committee, acting under pressure from States representatives fixed it at 50%, and further provided that a definite share of the remaining distributable part may also be retained by the Federal Government, if its finances do not permit its allocation to the provinces.

The State units are exempt from the imposition of this tax, but the Federation may impose surcharge on Income Tax, in case of an emergency, after all the available sources of income are exhausted. While it is unfair to burden only the provinces and to exempt the States from Income tax, it may be pleaded on behalf of the latter, that the Federal Government has to shoulder the burden of debts incurred and the payment of interest thereon, for which they are not in any way responsible. Further, the States are economically not so advanced on the whole, compared to

British India and they should be treated with a little consideration in this respect. It may be suggested, however, that the White Paper proposal *viz.* of fixing the Provincial share at 50% and increasing it to 75% as the finances of the Federation permit, is eminently reasonable and should be acted upon.

With regard to the concurrent field of legislation, it may be remarked that it was introduced to have uniformity of legislation in Civil and Criminal Law and Procedure and matters concerning labour. The States were not prepared for such an invasion of their powers. It is suggested that the uniformity of legislation in these matters is the result of a century of central legislation and it would be worth while to retain it as far as possible, to avoid conflicting and different laws in different provinces. One would expect that the States would lose nothing by adopting the same legislative uniformity. Endless confusion would result if the subjects in the concurrent field were assigned to the provinces. It may be conceded, however, that for a terms of years the States may be allowed to continue their legislative powers in the field to avoid touchiness on their part.

#### RESIDUARY POWERS

The case with regard to residuary powers of legislation is some what different. In some federations, particularly in U. S. A. they are assigned to the federating states. Though the provinces of British

India cannot, in any sense, be said to be sovereign states, as the Indian States may be deemed to be, they may be allowed to exercise the privilege of making laws on any matter not specifically provided for in the Federal or the Concurrent List. The States will, as mentioned above, retain the whole non-federal list as residuary, subject to the reconsideration of the Concurrent List after a term of years, if the majority of States so decide.

It will be clear from the above suggestion that the provinces and States will enjoy considerable powers of legislation and will get additional sources of income such as excise duties on tobacco and other goods, a higher share in Income Tax and salt. The States will be exempted from the imposition of Income Tax as at present and their tributes will decrease till they will finally disappear. These provisions will give additional income to the units for beneficent work to be undertaken for the uplift of the people.

## CHAPTER IV

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### THE FEDERAL LEGISLATURE

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#### (i) COMPOSITION AND DURATION OF THE FEDERAL LEGISLATURE.

Under the Government of India Act of 1935, the Federal legislature will be bicameral. The upper house, the Council of State will comprise 260 members, while the lower house, the Federal Assembly will consist of 357 members. The necessity of having an upper house in modern constitutions has been questioned by many jurists. It is commonly expected to act as a check or brake on the passing of hasty legislation by the lower house. In most cases, however, it only means duplication of legislative activity and results in arresting or delaying the legitimate exercise of power by the lower house. An upper house is provided for in federal constitutions to serve, as the guardian of the rights of the federating units and with this object in view the units are represented in it either equally as in the U. S. A. and Australia or on the basis of political importance and not on the basis of population. The upper house in the U. S. A. is invested with judicial powers and the power of assenting to the

appointment of ambassadors and Secretaries of State and the making of treaties with foreign powers. It is thus a very important body. We may, therefore, have two houses as in other federations.

The Indian States have been allowed 33% seats in the Federal Assembly, and 40% in the Council of State, *i. e.* there will be 125 representatives in the lower and 104 in the upper house will be from Indian States. Considering the population of States, which is only 26% of the total population of India, they have been given considerable weightage in both the houses. It may be conceded, however, in view of the large number of States and the resulting difficulty of assigning separate membership to smaller states which would otherwise go without representation. With regard to State representation in the Council State, it may be said that there is far greater disparity here between different provinces and states in point of population and importance and hence absolute equality is impossible to attain. We may, therefore, concede that the weightage given to States may remain unaltered in the future constitution. Similarly to allay the fears of the Muslims 33%, of total seats in the federal legislature may also be reserved for them, but in that they should be prepared to accept joint electorates. Separate electorates for different communities in India

has been responsible for incalculable mischief and is at the root of the absurd demand for a division of India. Separate electorates always breed bitterness and hatred. Col. Wedgwood Benn observed with regard to communal electorates during the debate at the second reading of the Government of India Bill:—

“The voice of the system (of communal electorates) which we are about to import into India is inconceivable and its effects will be widespread. It means that at election time the only views which candidates will express will be views of bitter hostility to other creeds, classes and interests. It means that all politics will be directed towards hating somebody else, instead of trying to co-operate with the other people. . . . . We propose to bring the voice of communal representation in the new constitution, but we know that there is not a man in this country who would tolerate it here. Yet there has not been one word from the Government in defence of it, although in India it is the one issue with 240,000,000 Hindus.”

Further, from a perusal of the allotment of seats to different communities it will be found that all the minorities and special interests have been given excessive weightage at the expense of the majority community *i. e.* Hindus. If weightage is the price of

joint electorates and the unity of the country, it may be allowed without demur. But so far it has only resulted in the incessant and insistent demand for partition.

The total number of seats in the Federal Assembly should be 450, as was recommended by the Franchise Committee. The number 375 provided in the Act of 1935 is much too inadequate for a nation of 390 millions. It was fixed by the Joint Select Committee merely to placate the Indian States. Out of 450, 150 seats will be assigned to the States, roughly on the basis of population so that every State having 5 lacs of people would send one representative. The 300 seats of British India will be distributed among the different provincial units according to the table given on the next page, roughly on the basis of one representative for each million of the population, making due allowance for the commercially and politically important provinces like Bombay. Every important province shall assign one seat for labour, one for women, one for Industries and one for Anglo-Indian and European constituency. The distribution of seats in British India should be somewhat on the following lines:—

## Allocation of Seats in the Federal Assembly

Name of Unit	Total seats	General seats	Seats for Sch. C.	Seats for Muslims	Seats for I. C.	Seats for E. & A	Seats for Ind.	Labour seats	Seats for women
1. Maharashtra	14	5	2	2	1	1	1	1	1
2. Gujerat	12	4	1	2	1	1	1	1	1
3. Karnatak	12	5	2	2	1	1	1	1	1
4. Kerala	6	3	1	2	1	1	1	1	1
5. Madras	21	8	3	4	2	1	1	1	1
6. Andhra	19	9	2	4	1	1	1	1	1
7. Dacca	26	5	1	15	1	1	1	1	1
8. Bengal	20	8	1	6	1	1	1	1	1
9. Bihar	32	14	3	10	1	1	1	1	1
10. Orissa	10	6	2	2	1	1	1	1	1
11. Sindh	8	1	1	5	1	1	1	1	1
12. Assam	10	4	1	3	1	1	1	1	1
13. United Provinces	36*	15	4	11	1	1	1	1	1
14. Delhi	22*	7	1	5	1	1	1	1	1
15. Punjab	22*	5	1	12	1	1	1	1	1
16. C. P. & Berar	10	3	2	2	1	1	1	1	1
17. Mahakoshal	10	4	2	2	1	1	1	1	1
18. N. W. F. P.	6*	1	1	4	1	1	1	1	1
19. Ajmer	2	1	1	1	1	1	1	1	1
20. Baluchistan	2	1	1	1	1	1	1	1	1
Total	300	108	30	96	12	11	10	12	12

The units marked\* will have 1, 4, 3 and 1 seats respectively reserved for Sikhs. In all their seats will be 9.

§ The women's seat in Mahakoshal is open to women in C. P. & Berar also.



## THE COUNCIL OF STATES

The Council of States will be a smaller but by no means a less influential body than the Federal Assembly. It should be a house representing the units as such rather than the people living in them. It should consist of 250 members out of whom 100 will be from Indian States *i. e.* 40% of the total number. The remaining number will be distributed among the different provinces partly on the basis of population and partly of political importance and in such a way that all the units would be fairly represented. The allocation of seats provided in the Act of 1935 will have to be reconsidered and modified in the light of provincial redistribution (discussed in Chapter III) and seats may be assigned to the provincial units somewhat on the basis shown on the next page.

From a perusal of the tables given above, one thing stands out clearly above the rest and that is the representation to the various communities and interests is fairly generous. Thus Hindus (excluding scheduled castes) number 150.9 or 51% of the population in British India and have been assigned 36% or 108 seats in the Lower House and 42% or 63 seats in the Upper House in order to prevent the majority community from dominating the Legislature. The Muslims, having

BRITISH INDIAN REPRESENTATION IN THE  
COUNCIL OF STATES

Name of Unit or Community	Total seats	General seats	Scheduled castes seats	Muslim seats	Landholders seats
1. Maharashtra ..	8	4	1	2	1
2. Gujerat ..	6	3	1	2	..
3. Karnatak ..	6	3	1	2	..
4. Keral ..	2	1	..	1	..
5. Madras ..	9	5	2	2	..
6. Andhra ..	9	5	1	2	1
7. Dacca ..	12	2	1	8	1
8. Bengal ..	12	6	1	4	1
9. Bihar ..	12	6	2	3	1
10. Orissa ..	5	3	1	1	..
11. C. P. & Berar ..	5	3	1	1	..
12. Mahakoshal ..	5	3	1	1	..
13. United Provinces ..	15	7	2	5	1
14. Delhi ..	10*	4	1	3	..
15. Punjab ..	10*	2	..	7	..
16. N. W. F. P. ..	5*	1	..	3	..
17. Sindh ..	5	1	..	4	..
18. Assam ..	5	3	..	2	..
19. Ajmer ..	1	1	..	..	..
20. Baluchistan ..	1	..	..	1	..
21. Anglo-Indians & Europeans..	4	..	..	..	..
Total ..	150	63	16	54	..

Unit Nos. 14, 15 and 16 marked\* will have 2, 1, and 1 seats respectively.  
Sikhs, 4 non-provincial seats have been allotted to Europeans.

a population of 76.4 or 26.8% in British India have been allowed 96 or 32% in the Lower and 54 or 36% seats in the Upper House, with an average of 33% in both the Houses taken together. The Scheduled Castes numbering 40 millions in British India have been given 16 seats in the Upper and 30 seats in the Lower House. Making an allowance for the 20% increase of seats in the Federal Assembly over those provided in the Act of 1935, the allocation of seats to the different communities is much more rational. The following comparative table will make this point very clear:—

Community	Seats under the Act of 1935 for B. I.		Seats proposed for B. I.	
	Upper House 150	Lower House 250	Upper House 150	Lower House 300
1. Hindus (excluding scheduled castes ..	69	86	63	108
2. Scheduled Castes .. ..	6	19	16	30
3. Muslims .. ..	49	82	54	96
4. Sikhs .. ..	4	6	4	9
5. Indian Christians .. ..	2	8	3	12
6. Europeans .. ..	7	8	} 4	11
7. Anglo-Indians	1	4		

It would be further apparent that special interests have been fairly provided for and that Landholders have been assigned 6 seats in the Upper House, while 12 seats have been set apart for women in the Lower House. The only community that may appear to suffer is the Europeans, who along with Anglo-Indians are less than 1% of the total population, still they have been given very fair representation in both the Houses. Their representation under the Act of 1935 is not only excessive but unjustified.

#### (ii) MODE OF ELECTION

The mode of election provided in the Government of India Act of 1935 for the Federal Assembly is indirect and for the Council of State is direct. In no other federation is the lower house elected indirectly. The British Indian delegation to the R. T. C. strongly opposed it, and even in the White Paper direct election to the lower and indirect election to the upper House was proposed. The Joint Select Committee turned down this salutary proposal and took a very retrograde step. From the purely constitutional point of view it is highly objectionable. Sir Herbert Samuel strongly objected to the indirect election, and observed :\*

“Does the Committee realise that each of the members of Central Assembly is going to be chosen by a group of from five to eight individ-

\* Parliamentary Debates (March 6, 1935) quoted by Prof. Joshi in his *New Constitution of India* pp. 167-8.

uals? Five to eight individuals meeting in a room are to choose the members of Parliament for All-India.....Such a system as this has been unheard of in the whole history of the world..... Dissolution will be perfectly futile, and the members will not have to go back to great constituencies and face the troubles and perils of a new election. They will go back to the room where they were elected and they will be sent back again.....Should we endure such a Parliament in this country? Would any European country endure it?"

Direct election to the present Legislative Assembly, which has bigger constituencies than the future Federal Assembly would have, has not proved unworkable so as to be given up. The Federal Franchise Committee, comparing the constituencies of the United States of America to those in India, observed that

"there is nothing inherently impossible about the eventual election of the Federal Assembly by the whole adult population of British India."

There ought to be, therefore, direct election to the Federal Assembly not only in British India but also in Indian States, following the accepted principle of having the people's representatives in the lower house of a federation. The election of representatives to the Council of States may be indirect and in the case of Indian States members may be nominated by their Princes, to begin with, so as to reflect their viewpoint and safeguard their rights and interests.

The seats assigned to the States should be distributed on the basis of one representative for each million of the population, but States with a population of five lacs may be allowed to send one representative. States having less than that will send representatives jointly through their regional federation.

### (iii) DURATION OF THE LEGISLATURE

The life of the Council of State has been fixed for nine years with one third of its members retiring every three years. A better provision would be to fix it for six years with one half members retiring every three years. This would ensure continuity and would make it less conservative. The life of the upper house in U. S. A. and Australia is six years, and we should follow their example so far as possible. The practice of electing the members in the upper house every second year as it is in U. S. A. gives rise to election at a very short interval and need not be followed.

The life of the Federal Assembly is to be five years under the Act. Considering the complexity of the election on account of an unusually large number of voters, it would be desirable to retain the provision unchanged.

### (iv) LEGISLATIVE PROCEDURE

General Bills may originate in either Chamber, but Money bills should be submitted first to the Lower House.

A bill passed by one House but rejected by the other shall be discussed in a joint sitting of the two Houses, and if passed by them jointly, it shall become law, unless it is returned for reconsideration or withheld.

All the bills passed jointly or separately by the two Houses shall be submitted to the President, who may give his assent, or return it for reconsideration or withhold it. The bill returned for reconsideration shall be submitted to a joint sitting of the two Houses and if it be passed by a two-thirds majority, it shall be assented to by the President and it shall become law.

A bill withheld by the President shall not be submitted to either House during the session, but if, after the Houses re-assemble, each House signifies its desire that the bill be considered and if it be passed in each House by a two-thirds majority, it shall be assented to by the President and become an act.

#### POWERS OF THE FEDERAL LEGISLATURE

The Government of India Act 1935 circumscribes the powers of the Federal Legislature in many ways. The Federal Reserve Bank and the Federal Railway Authority will not be under the effective control or authority of the legislature. The Governor General and the Governors will continue to wield very wide powers of making laws, disallowing the bills passed by the legislature, promulgating ordinances and passing Acts under their authority. Numerous items of expend-

iture classed as non-votable shall be charged on the revenues of the Federation and shall be outside the scope of Federal authority. The Federal Legislature will have no power to amend the constitution except in minor points and that too ten years after the inauguration of the Federation. The power of the British Parliament to legislate would remain unaffected. Obviously all these limitations reduce the authority of the proposed federation to a mere shadow, and there is hardly a thinking person who would consider it even as a provisional measure.

The Federation which we envisage ought to be a sovereign state not subject to any outside authority. It will have full law-making powers, including the power to draw up and amend its own constitution. It will have full control over all the departments including defence and external affairs. Till the time India is unable to provide all the officers to man the defence services, British officers at present serving will be retained on their present service conditions. The time required for transition and satisfactory adjustments may be put down at ten years. As soon as the constitution is drawn up by a representative body,\* it should form the subject of a treaty between India and England entered into by the accredited representatives of both the nations, and thenceforth India would be a sovereign state subject to the terms of the treaty, intended for the period of transition, and like other dom-

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\* See the next chapter.



inions, free herself from all outside control. It is upon India to decide whether to rest content with the status of a dominion or to sever all connection with the British Commonwealth and exercise her right of secession. That again is a question of time and power to defend the borders against foreign aggression. The status of dominions has been described as that of

“Autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations.”

Essentially there is little difference between Dominion Status and Independence, however attractive the latter might appeal to sentiment.

“The word independent is a relative term. Today the independent nation no more exists than does the independent man. The effective decisions in world politics today are made by a few Great Powers, and the weaker nations are forced, as it were, to group themselves about some one or other of these, like satellites about a planet, and to follow its lead in external affairs.”\*

Whether India decides to remain within or without the British Commonwealth of Nations, Dominion Status during the transitional period would inescapably

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\* Ram Subramanyam: “The Evolution of Indian Constitution.” Introduction p. XXX.

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be the stopping-stone to complete independence. It should be further considered that the Indian States have, at least in legal theory, direct relations with the Crown, which they are naturally keen on maintaining. To them Dominion Status would be not only a desirable necessary goal to be reached. If there should be a federation for the whole of India and not only for British India, the whole-hearted co-operation of States ought to be sought without sacrificing the essentials of a federation. The world tendency to-day is not towards separatism, but cooperation and association for common purposes and interests, and India would lose nothing if she becomes a member of the British Commonwealth of Nations, or for that matter, the World Commonwealth of Nations, without endangering her independence or loss of identity.

## CHAPTER V

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### DRAWING UP AND AMENDMENT OF THE CONSTITUTION

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In regard to the formation of the Constituent Assembly the Cabinet Delegation have proposed

(a) to allot to each Province a total number of seats proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage,

(b) to divide this provincial allocation of seats between the main communities in each Province in proportion to their population, and

(c) to provide that the representatives allotted to each communities in each Province shall be elected by the members of that community in its Legislative Assembly.

Acting on this basis, the number of representatives of the main communities in different provinces and groups would be as follows:—

## TABLE OF REPRESENTATION

## SECTION A

Province	General	Muslim	Total
Madras .. ..	45	4	49
Bombay .. ..	19	2	21
United Provinces ..	47	8	55
Bihar .. ..	31	5	36
Central Provinces ..	16	1	17
Orissa .. ..	9	..	9
Total	167	20	187

## SECTION B

Province	General	Muslim	Sikh	Total
Punjab ..	8	16	4	28
N. W. F. P. ..	..	3	..	3
Sindh ..	1	3	..	4
Baluchistan ..	..	1	..	1
Total ..	9	23	4	36

## SECTION C

Province	General	Muslim	Total
Bengal ..	27	33	60
Assam ..	7	3	10
Total..	34	36	70
Total for British India (including Ajmer, Coorg, and Delhi)			296
Maximum for Indian States			93
Total			389

After the election of the Chairman and Office-bearers and the setting of an Advisory Committee on the rights of citizens, minorities, and tribal and excluded areas, the Constituent Assembly will divide into the three sections shown above. The sections shall determine the provincial constitution for the provinces included in each section, and shall also settle whether there should be any Group Constitution and if so, with what subjects the Group should deal.

The provinces shall have the power to opt out of the Groups concerned at a meeting of the Legislature after the first general election under the new constitution.

The States will set up a Negotiating Committee

which will cooperate in the building up of the Constitution for the whole country.

The representatives of the Sections shall, after the drawing up of the provincial constitution and of the Group, if any, reassemble along with the representatives from Indian States for the purpose of settling the Union Constitution.

Major communal issues shall require a majority of the representatives present and voting of each of the two (Hindu and Muslim) communities for their determination.

#### SUGGESTIONS

The Constituent Assembly should elect small committees on a representative basis and they should duly consider and settle the division of powers, redistribution of provinces on a homogeneous basis, regional sub-federation of smaller States and other subjects, incidental to the setting of a federation. All the decisions in the drawing up of the Constitution should be taken by a two-thirds majority.

After the Constitution is drawn up and finally passed, it shall be enacted and will be incorporated in a treaty between England and India and will be signed by the accredited representatives of both the nations.

After the treaty between England and India is entered into, the powers of the Secretary of State for India shall cease, and the Government of India would

become completely independent subject to the terms of the Treaty.

Amendments of the Constitution may be effected by a special session of the Federal Legislature, convened for the specific purpose of amending the Constitution, and may be adopted if two-thirds majority of the Federal legislators and the provincial and State units pass them. For this purpose State units or groups of States which would be separate units of the Federation should have properly constituted legislatures with an elected majority on the lines of those in British India.

"You should realise that whatever the form of administration may be, that government is the best which is based on the will of the people. It is, therefore, necessary that the Ruler and the ruled should form inseparable parts of that corporate body which we call the State. If you steadfastly and loyally cherish this ideal and implement the mutual obligations between the Ruler and the ruled you will be doing valuable service to the cause of good government."

H. H. the Maharaja of Gwalior  
in a speech to the  
Majlis-i-Am.

#### THE MISSION OF INDIA

"With buoyant hope, with a faith that never shirks duty, with a sense of justice that deals

fairly to all, with unclouded intellect and powers fully cultivated, and lastly with a love that overleaps all bound, renovated India will take her proper rank among the nations of the world. This is the goal to be reached—this is the promised land. Happy are they who see it in distant vision, happier those who are permitted to work and clear the way on to it, happiest they who live to see it with their eyes and tread upon the holy soil once more ”

Mahadev Govind Ranade in one of  
his speeches, printed in his Life  
by G. A. Natesan & Co., Madras.



## CHAPTER VI

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# THE FEDERAL EXECUTIVE AND JUDICIARY

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### THE EXECUTIVE

As has been stated in the last chapter, the powers exercised by the Governor-General over the administration are so wide that they reduce the authority the majority of the proposed Federation to a mere shadow. He is responsible to the Secretary of State and the Crown. Obviously under the future constitution the Government of India he will be responsible to the people and the Governor-General or whatever name may be given to the Head of the Indian Federation, will be invested with the irreducible minimum of executive authority.

The President as the Head of the State is generally called in a Federation, may be nominated by His Majesty, during the transitional period, from amongst Indian Statesmen noted for their progressive views. After the period of transition is over, the President will be elected from amongst the Princes and people (including Anglo-Indians and Indian Christians) by the members of the Federal Legislature acting as an electoral college. If it is desired, the President may be elected by an electoral College specially elected for the purpose of presidential election. A panel of Vice-Presidents representing the

main communities will also be elected along with the President.

The President will be the Head of the executive and will be assisted by a Council of Ministers, who will not be appointed by him as is done by the President in the U. S. A., without reference to the support they have in the legislature, but who will be fairly representative of the main parties in the legislature. The Premier or the Chief Minister should represent the biggest party, but should enjoy the general support of the other parties as well. The Ministry should be a fair reflection of the important parties in the legislature, The Indian States *i. e.*, the Princes and the States people should also be adequately represented. The Ministry thus formed would be more or less of the Swiss type and would work as a stable Committee of the Legislature and be free from the vagaries and the instability of a party ministry. The Federal Ministry should all the same be responsible to the Legislature and should resign as soon as a motion of no-confidence is passed or it otherwise appears that the Minister has lost the support of the House. A Composite Ministry will ensure the cooperation of the different communities in the Legislature and facilitate adjustment and compromise between the different communal and special interests.

#### POWERS OF THE PRESIDENT

The Head of a State in a Presidential type of Government is generally invested with far greater

powers than the Premier in a Parliamentary type. The President of the U. S. A. appoints the heads of different departments called the Secretaries of State, and is regarded as the 'dispenser of patronage, jobs and other prerequisites of his office.' He makes the appointment of consuls and ambassadors in foreign countries with the consent of the Senate, and exercises a very wide control over the federal administration. As India is going to have a federal form of government and combine the Parliamentary type with the federal, the model to be followed by us should be Australia rather than U. S. A. In the Australian Federation, the Governor-General who represents the Crown possesses only limited powers and has only to act on the advice of the Ministry. The President of the Indian Federation would resemble the Governor-General of Australia and enjoy the normal powers which the Head of a State of a Parliamentary type generally has, such as summoning, proroguing or dissolving the legislature, summoning a joint session of the Legislature in case of disagreement between the two Houses, giving assent to bills passed by the Legislature or returning them for reconsideration or withholding them, promulgating ordinances with the concurrence of the Ministry in times of emergency and finally to discharge his special responsibilities on the lines of those enumerated in S. 12 item nos. (1), (2), (5), and (7), of the Act of 1935, regarding the maintenance of law and order, the protection of the legitimate rights of minorities and of the Indian Rulers and safeguarding the financial

stability of the Federation. In these as in all other matters, the President as the constitutional Head of the Federation, should act on the advice and with the concurrence of the Federal Ministry.

The salaries of the Ministers should be fixed by the Legislature at the beginning of their tenure of office. As for the salaries of the higher officials of the Federation, heads of the provincial units, High Court Judges and others a Services Commission should be appointed to determine the service conditions, emoluments etc., and effect should be given to its recommendations after they are approved by the Legislature.

#### DEFENCE

All the federal subjects including Defence would be under responsible Ministers. It would appear obnoxious to many persons who have never believed in India's capacity for defending herself, but that is an eventuality one cannot escape in the near future. Self-determination or for that matter independence and the responsibility of defence are inseparable. It is argued *ad nauseam* that India, without British protection, would not be able to defend her borders, and that no sooner Indians begin to manage their own affairs, than they would fall an easy prey to an unscrupulous foreign aggressor. Against this view, it may be submitted and proved that while aggression is not an impossibility, India would be sure to hold her own. She has demonstrated twice within our living memory, in the Great War of 1914-18 as well as in the World War of 1939-45

what a powerful and potentially unlimited military organization India can build and what capacity for sacrifice in men and money she possesses in spite of the inferiority of her status. When it comes to defending her independence, India's endeavours and sacrifices would be almost incalculable.

Further the problem of defending one's frontiers is complex and depends on many factors of which the international alignment of different nations is the most important. It is difficult to find a nation to-day which can hold out singly against a very powerful aggressor. If the principle of the capacity for defence is logically applied, most European or American Nations to-day would cease to be entitled to remain independent.

There should be a Committee for National Defence, presided over by the President and consisting of the Defence Minister, Finance Minister, the Commander-in-Chief, Military experts, representatives of the Princes and from both the Houses of the Legislatures, to advise the President and the Council of Ministers on the problems of external and internal defence.

#### FEDERAL JUDICIARY

An independent Judiciary is an essential condition of a federation. In the unitary form of government, there is no conflict between the different administrative units *inter se* or between the centre and one of the units, which is inherent in a federal type. The spheres of government in the latter are

clearly defined in the Constitution and each unit is jealous of safeguarding its rights and powers, and any transgression of them by any other unit or the federal government needs to be impartially adjudicated upon by an independent tribunal. The main object of having supreme or federal court in a federation is thus to interpret the constitution and adjudicate upon the disputed rights and claims in which the federation or a unit is a party.

The appointment of the Chief Justice and other Judges of the Federal Court will be made by the President on the advice of the Federal Ministry. They will hold office during good behaviour and shall not be removed from office except on an address passed and presented to the President by both the Houses of Legislature. Their number, salaries and other details regarding their service will be determined by the Services Commission.

The jurisdiction of the Federal Court will be Original as well as Appeallate. It will entertain original cases of disputes between two units or between the federation and a unit respecting constitutional matters only. On its appeallate side, it will entertain civil appeals against judgements by Provincial High Courts involving claims on or over property above a specified sum. The States should determine whether it would not be advisable to allow their civil appeals of a like nature to be taken to an Appeallate Division of the Federal Court the Judges of which may be

appointed by a Committee of the Chamber of Princes from amongst retired High Court Judges. If they so decide, it would not only avoid duplication of Appellate Courts and reduce a lot of expenditure, but ensure uniformity of justice.

The judgments of the Federal Court shall be final and conclusive and shall not be subject to appeal to any other tribunal.

In cases of dispute between a provincial or State unit and any individual, involving constitutional matters the provincial or State High Court would be entitled to entertain original cases, and appeals from their judgments will lie to the Federal Court.

The Federal Court may make rules respecting the procedure to be followed in its original and appellate jurisdiction, its forum, fees and other matters.

One of the most important functions of the Federal Court would be the adjudication of disputes between the States and the British Crown respecting the rights of paramountcy exercised by the Crown Representative during the transitional period. After the translational period, they may be exercised by a Committee of the Chamber of Princes, and if a Prince is dissatisfied with the decision of the Committee, an appeal against the decision will be entertained by the Federal Court. This provision will do away with the uncertainty that attends the exercise of the rights of paramountcy, and ensure uniformity of procedure and practice in dealing with the rights and privileges of the Princely order.

## CHAPTER VII

### FINANCIAL CONSIDERATION\*

The principal heads of Federal and Provincial Revenue and the figures of pre-war federal income and expenditure are given below :—

#### Federal heads of Revenue.

1. Corporation Tax
2. Income Tax
3. Customs
4. Railways
5. Posts and Telegraphs
6. Currency & Mine
7. Salt
8. Opium
9. Central Excise Duties

#### Provincial heads.

1. Land Revenue
2. Excise ( Provincial ).
3. Stamps
4. Forests
5. Irrigation
6. Registration
7. Interest
8. Civil Works

#### Federal Revenue ( 1938-39 ) ( In lacs of rupees )

Customs	43,81
Central Excise	7,76
Corporation Tax	1,55
Income Tax	12,42.34
Salt	8,35
Opium	44.92
Railways	32,57.41
Posts & Tele- graphs	74.61

#### Federal Expenditure ( 1938-39 )

Direct Demands	4,33.35
Capital outlay on Salt Works	98.0
Railways	30,01.75
Irrigation	10.78
Posts and Tele- graphs	80.48
Debt Services	14,62.32
Civil Adminis-	

\* See also part (iv) of Chapter III.



Federal Revenue (1938-39)		Federal Expenditure	
(In lacs of rupees)		(1938-39)	
Debt Services	66.53	Irrigation	11,31.18
Civil Administration	99.99	Currency & Mine	37.43
Defence	5,59.69	Civil Works	3,12.36
Currency & Mint	66.94	Defence	50,77.69
Civil Works	30.9	Miscellaneous	3,04.82
Miscellaneous	1,54.86	Contributions	3,63.65
Extraordinary	3,75.14	Extraordinary	1.8
Irrigation	1.02		
Total		Total	
122,27.22		122,18.47	

It will be apparent from the above classification and figures that the most elastic sources of revenue have been reserved for the Federation, while comparatively inelastic and unexpanding sources have been assigned to the provincial units.

**CUSTOMS:** Customs duties are and should naturally remain a federal subject, as it is essential that they should be uniform throughout the country and there should be as few barriers in the movement of goods between one province or State and another. It should be noted in this connection that some States still retain the right to impose internal customs duties on goods entering their territories. This is quite inconsistent with the essential principle of federation. The Joint Select Committee observe in this respect :

“ But internal customs barriers are, in principle, inconsistent with the freedom of interchange of a fully developed federation, and we are strongly of the opinion that every effort should be made ( except the States ) to substitute other forms of taxation for these internal customs. ”

It may be remarked that they are more akin to octroi duties or terminal taxes, and provide a good source of income of the economically backward States. Such duties, should be, however, regulated and given up as early as possible. The States agreeing to give up customs, would gain considerably in respect of their tributes and defence expenditure. The former is a mark of their dependent status and is inconsistent with their autonomous status in the Federation.

Many States enjoy immunities in respect of salt, postal services, currency and customs. Their tributes should be abolished *pari passu* with the assignment of the additional income tax receipts (*i. e.*, over 50% ) to the provinces and the amount of immunities should be taken into account along with the reduction of the amount of tribute.

As defence is a federal responsibility, the units should not be saddled with the burden of expenditure over defence. The States, therefore, should be given relief in this respect. Further to keep armies by the units is incompatible with the essence of federation. They may keep small bodies of militia or armed police

for maintaining internal peace and order and for ceremonial purposes.

**INCOME TAX:** On the recommendations of Sir Otto Niemeyer it was provided by an Order in Council that 50% of the Income Tax receipts would be allotted to the provinces subject to the minimum federal receipts under this head along with railway surplus during the first five years and a definite share of receipts assignable to the provinces during the next five years. The shares of the provinces under this provision are as follow:—

Madras 15%, Bombay 20%, Bengal 20%, U. P. 15%, the Punjab 8%, Bihar 10%, C. P. 5%, Assam 2%, the N.W.F.P. 1, Sindh 2%, and Orissa 2%. It was recommended in the White Paper that the provinces should be allowed 50% of the Income tax receipts rising to 75% after a specified period. The States strongly objected to the proposal on the ground that the provinces ought to bear a greater burden in view of the pre-federation debts of the Government of India and the heavy financial responsibilities of the Indian Federation. The Joint Select Committee, therefore, decided that the assignable share should not exceed 50% of the total receipts and that too should be subject to the financial position of the Federation during the first ten years.

Though the initial expenditure in inaugurating the Federation is expected to be heavy, the provinces

themselves are likely to face heavy expenditure in nation-building departments such as education, medical relief, rural uplift, co-operation and many others. It would be, therefore, fair that the provinces should be given a substantial share in the expanding sources of revenue as Income and Corporation Tax. The provincial share in the Income Tax receipts should be 50% rising up to 75% with an yearly increment of 5%. A time may come in future when, the federal budget allowing, the whole of the Income Tax may be assigned to the units. As for the Corporation Tax, the whole of it may be retained by the the Federation for a fixed term of years after which it may be reconsidered.

**SALT AND OPIUM:**—As the cultivation of opium is being discouraged, the revenue from this source is steadily decreasing. This source of revenue does not present any difficulty and can be assigned to the units, though a uniform policy in regard to it is advisable. Salt is a daily necessity and duty on it is resented by all. It should be steadily decreased and should be kept as low as possible, though, being useful as a source of income, it need not be entirely abolished.

Railways, Posts & Telegraphs must always remain federal and are expected to bring in considerable income to the federation. Similarly there should be a uniform currency policy for the whole country and any attempt to allow units to have their own currency should be discouraged. The States already

empowered to have their own currency would find it convenient to cooperate with the federation in this respect or in the alternative to enter into specific agreements.

62½% of the Jute export duties would go to the provinces under the present arrangement. As Bengal (which is the principal exporting province) is a deficit province, the share should be raised to 75% as early as practicable.

It is expected that the inauguration of the Federation and the new constitutional adjustments would necessarily entail heavy additional expenditure. This deficit would have to be met partly by borrowing, partly by the Indianisation of the Army and other services and a thoroughly regulated military expenditure, and partly a reduction of the very highly paid All-India services. The Federal revenue would have to be increased by State undertakings of key industries, a general speed-up in the industrialisation of the country and a rapid improvement in the standard of living of the people, resulting in greater purchasing power and commercial transactions.

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### PROVINCIAL AND STATE GOVERNMENT

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The provincial and State units in the Federation will enjoy full autonomy within the sphere defined by the constitution, the general principles of which have been discussed in Chapter III Sec.(iv). The suggested division of powers would be not only quite consistent with the present status of the States, but will actually safeguard their future position in the Federal structure against the arbitrary exercise of power by the Federal administration.

The re-distribution of provinces on a linguistic basis and the re-grouping of smaller States have been already dealt with in some detail. That will give us more manageable and homogeneous provincial units and obviate the necessity of having to deal with very small State units which cannot carry on a tolerably efficient administration. The Constitution ought to provide that the democracy at present enjoyed by the provincial units shall be enjoyed unrestricted in future and as for the States they should also have representative institutions with an elected majority before they enter the Federation and undertake to democratise their administration steadily until finally after a term of years it becomes responsible to the people of the unit concerned. The entry of the States in the Federation should be voluntary and the terms

and conditions of accession should be as uniform as possible. It is expected that in respect of the matters of common concern such as defence, foreign relations, customs, communications and such others the States would find it advisable to make common cause with the All-India Union, while for the remaining subjects they and the provincial units would enjoy perfect autonomy.

The life of the unit legislatures may be four years for the Lower House and six years for the Upper House, if any, as against five and nine years provided in the Act of 1935. Bombay, Madras, Bengal, U.P., Bihar and Assam have Second Chambers at present. With regard to the question of having an Upper House, the Provincial Constitution Subcommittee suggested that the decision to that effect "should not be taken until opinion in the province definitely favours this course." The question, therefore, of Second Chambers should be left entirely to the discretion of the provincial or State people.

The method of election to the Legislatures should be direct and as regards franchise, the present franchise which gives the right to vote to 14% of the population should be widened within a period of ten years so as to include every adult in the electorate. Maximum efforts should be made during the period to spread literacy and education amongst the masses, to enable them to understand and vote intelligently. The franchise no less than other constitutional matters

should be reviewed and if necessary amended from time to time.

The present strength of the Lower House of the provinces is 215 for Madras, 175 for Bombay, 250 for Bengal, 228 for U. P., 175 for the Punjab, 152 for Bihar, 112 for C. P., 108 for Assam, 50 for N. W. F. P., 60 for Orissa, and Sindh. After the re-distribution of provinces and the grouping of smaller States, the number of legislators would have to be fixed according to the population of the unit roughly on the basis of one representative for each lac of population. The separate electorates provided under the constitution would have to give place, with the consent of the parties concerned, to joint electorates with reservation of seats with the right to contest additional seats. The representation of the Scheduled Castes which is quite inadequate in the present legislature should be increased steadily as to be in proportion to their population in the unit.

The number of members in the Lower House, and in the Upper House, if any, the privileges of members, their allowances, rules in regard to legislative procedure will all be settled by the Constituent Assembly, and will be perhaps, except the number, the same for the Federal as well as provincial or State Assemblies.

The Federal Government will have to exercise greater control over N. W. F. P. and Baluchistan, for



strategic reasons and Andamans and Nicobars will be under the direct administration of the Federation.

#### THE PROVINCIAL AND THE STATE EXECUTIVE

The unit Executive will consist of in the case of provincial units, Governors and in States the Ruler assisted in either case by a Council of Ministers, elected by the Legislature. The Governors of provinces will be elected from amongst the members by the Lower and the Upper House, if any, acting as an electoral College, and cannot be removed from office before the expiry of the term, which may be five years, except on a resolution passed by  $\frac{3}{4}$  the majority of the members of the legislature. The Governor will exercise all the normal functions of the executive head of the unit, such as convening or dissolving the legislature, maintaining law and order according to the constitution, sending bills for re-considering, and giving his assent to bills passed by the legislature, and finally protecting the rights of minorities and backward classes. He will have no power to pass Acts in his individual authority. He may promulgate ordinance on the advice and with the consent of the ministry. In short, he should act as a constitutional head of the unit.

What is described above in relation to the Governor applies also to the Ruler of a State with this important modification that in his case no question of election to the office arises.

All the appointments in the unit will be made by a Public Service Commission duly constituted for the purpose. Due consideration to the rights of the minorities and backward classes will be shown by the Commission so that they may be fairly represented in the services.

The ministers will be collectively responsible to the legislature and the Chief Minister or any other minister may resign if he is convinced that he does not enjoy the confidence of the legislature. In case of re-shuffling, the Premier may tender the resignation of the Ministry and should be called upon to form a new one by the Governor. If the Governor has reasonable grounds to conclude that the Legislature does not reflect the opinion of the people, he may dissolve it and order fresh elections. Except in an emergency or in the discharge of his special responsibilities, the Head of the unit, province or state, should always act on the advice and with the consent of Ministers.

#### THE PROVINCIAL OR STATE JUDICIARY

The present administration of justice in a province is fairly satisfactory. In the new constitution the independence of the judiciary ought to be secure from all executive influence, and the two functions, judicial and the executive should not be performed by the same person. The demand for this wholesome change is as old as the demand for independence. The appointment of the Chief Justice and High Court

Judges should be made by the Head of the Unit on the advice of the Ministry and should continue during good behaviour. They may be removed on an address presented to the Governor or Ruler by the Legislature. Other appointments in the Judicial service should be made by a Public Service Commission.

The recruitment of officers in the judicial service and the judicial administration in general in many States leave much to be desired. The judges are not efficient, and wholly at the mercy of their superior authority or the Rulers for their promotion or even continuance in service. The judicial department is regarded as the guardian of the rights of citizens and should be above all reproach and undue influence. In most cases, in states, the judges, or for that matter, most officers, are poorly paid. This results in a great loss of quality and efficiency. It is, therefore, essential that all executive interference in the appointment of officers and in the administration of Justice should stop to ensure efficiency and to safeguard the rights of the people.

## CHAPTER IX

### THE PRESENT AND THE FUTURE

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India is fast developing from the status of a dependency to a dominion and from a dominion to independence. Within a few months rather than years India will emerge as a great nation and will take her rightful place in the galaxy of free nations. This great achievement will have few parallels in ancient or modern history. It will be a monumental victory of peace, greater and more glorious than the greatest victory of war.

As a result of the unceasing and insistent demand of India for independence, the British Cabinet Delegation was sent with a view to help Indians evolve an agreed constitution. They conferred with the Leaders of different parties in the country, and finally convened a conference of the Leaders of the Congress and the Muslim League at Simla to end the communal deadlock and help them arrive at some agreement in regard to the future of India. Unfortunately the parleys broke down, as Mr. Jinnah was adamant as ever in his demand for a separate Muslim State, desiring to allow only shadowy power to the Union Centre, and as the Congress Leaders were wholly unprepared to agree to a virtual partition of India.

Both the main parties having failed to agree, the British Delegation announced their proposals for forming a Union Centre and the grouping of provinces into Muslim and Hindu areas. Group A comprises Bombay, Madras, C.P., Orissa, Bihar, and U.P., Group B consists of Sindh, Baluchistan, N. W. F. P., and the Punjab, and Group C includes Bengal and Assam. Defence, Foreign Relations, and Communications with the power to raise funds by taxation have been reserved for the Union Centre, while all the other subjects have been allocated to the provinces with the option to the Group to determine the provincial subjects to be taken in common. With regard to Indian States the Delegation has provided that after the attainment of independence by British India, the relationship which exists between the Princes and the Crown will come to an end. Paramountcy can neither be retained nor transferred to the new Union Government. The States will retain all subjects and powers other than those ceded to the Union and will negotiate new treaties on the basis of which they will enter the Union Centre.

While the British Delegation deserve praise for not being carried away by the Pakistan bluff, it is unfortunate that they have compulsorily grouped provinces on communal lines into Muslim and Hindu areas. Worse still, they have placed Assam a Hindu majority province into the North-east Muslim Group, and the Congress province of N.W.F. into the North-west Group, and have cast the heroic Sikhs at the

mercy of Muslims in the same Group, all against the declared wishes of the people concerned. The only redeeming feature of this constitutional arrangement is the power given to a province, after the first elections under the new constitution, to opt out of the group into which they have been provisionally placed. This arrangement of communal sub-federations is designed to meet the Muslim demand for Pakistan.

Taken as a whole, with all their imperfection, the British Cabinet Delegation's proposals afford new opportunities and take us nearer our promised goal of independence. After communal misapprehensions and bitterness give place to cool thoughts and dispassionate deliberation, the artificial groups of communal areas are sure to be discarded, and a purer and stronger type of federation will be evolved by common consent.

Indian States would enter the Union either as separate units in the case of bigger states and a regional confederation in the case of small ones. After the new constitution is drawn up and a treaty is entered into between England and India, will emerge a great federal structure for the whole of India, which will have become the United States of India, strong and united, bringing light, hope and happiness to the suffering millions not only in this country, but all over the world.

It is a happy augury for the future that the Indian National Congress has, in a ~~marked~~ unlike manner, accepted the Constitutional p. the

British Delegation and has formed an Interim Government at the Centre. The Muslim League which previously accepted the plan, has now retraced its steps out of chimerical fears of its working and its possible repurcussions on the North-west and the North-east Groups. It is needless to add that the fears are entirely unfounded as the Congress Working Committee has unequivocally accepted the plan in its entirety. It is, however, hoped that the League Leader will ultimately comprehend the futility of the policy of obstruction and wandering in wilderness, and join the National Interim Centre, and help in drawing up a new Constitution for an independent India.

# APPENDIX A.

## INDIA: AREA POPULATION AND INCOME.

(All figures in thousands and Income in lakhs).

Name of Province	Area in sq. miles.	Caste Hindus	Sched-uled castes	Muslims	Sikhs	Christ-ians	Total	Income (1944-45)
Madras ..	1,24,363	34,731	8,068	3,896	0.4	2,047	49,342	2132.6
Bombay ..	76,443	14,700	1,855	1,920	8	375	20,850	1769.2
Bengal ..	82,955	17,680	7,379	33,005	16	166	60,307	1843.8
U. P. ..	1,12,191*	34,095	11,717	8,416	232	160	55,021	2026.5
Punjab ..	1,36,330*	6,302	1,249	16,217	3757	505	28,419	1519.0
Bihar ..	69,348	22,174	4,340	4,716	13	35	36,340	697.0
C. P. and Berar ..	98,575	9,881	3,051	784	15	59	16,814	639.6
Assam ..	87,334*	3,537	676	3,442	3	41	10,205	364.2
Orissa ..	32,000	5,595	1,238	146	0.2	28	8,729	212.2
Sindh ..	46,378	1,038	192	3,208	31	20	4,545	797.0
W. F. P. ..	13,518	180	..	2,789	58	11	3,038	206.9
TOTAL ..	8,79,435	150,890	39,921	79,3999	4133.6	3,482	295,809	12,208.0

\* Including States.



APPENDIX B

PRINCIPAL INDIAN STATES

AREA, POPULATION, INCOME AND SALUTE

Name of State	Area	Popula- tion (In lakhs)	Income (In lakhs)	Salute of guns
1. Hyderabad . .	82,6998 Sq. miles	163.39	950.0	21
2. Mysore . .	29,528 "	73.28	516.78	21
3. Kashmir . .	84,481 "	40.22	320.0	21
4. Gwalior . .	26,382 "	40.06	257.78	21
5. Baroda . .	8,135 "	28.55	280.2	21
6. Travancore . .	7,661 "	60.70	301.4	19
7. Cochin . .	1,480 "	14.22	127.5	17
8. Patiala . .	5,942 "	19.36	180.0	17
9. Indore . .	9,902 "	15.13	126.0	19
10. Bhopal . .	6,924 "	9.95	80.0	19
11. Rewa . .	13,000 "	18.20	60.0	17
12. Jodhpur . .	26,120 "	25.55	216.0	17
13. Jaipur . .	16,682 "	30.40	143.0	17
14. Udaipur . .	12,691 "	19.26	90.6	19
15. Bikaner . .	23,319 "	12.92	222.0	17
16. Alwar . .	3,221 "	8.23	55.0	15
17. Polhapur . .	3,228 "	10.92	53.16	19
18. Kalat . .	53,995 "	2.53	15.7	21
19. Bahawalpur . .	16,434 "	13.75	121.30	17
20. Rampur . .	892 "	4.77	57.12	15
21. Bharatpur . .	2,000 "	5.75	32.20	19
22. Kotah . .	5,684 "	7.77	53.0	17
23. Bundi . .	2,205 "	2.49	16.0	17
24. Nawanagar . .	3,791 "	5.04	98.0	13
25. Bhavnagar . .	2,860 "	6.18	77.38	13

Note: The above information is based on the Indian Year Book, 1943-44.

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